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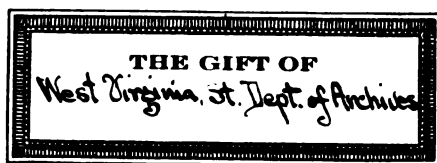
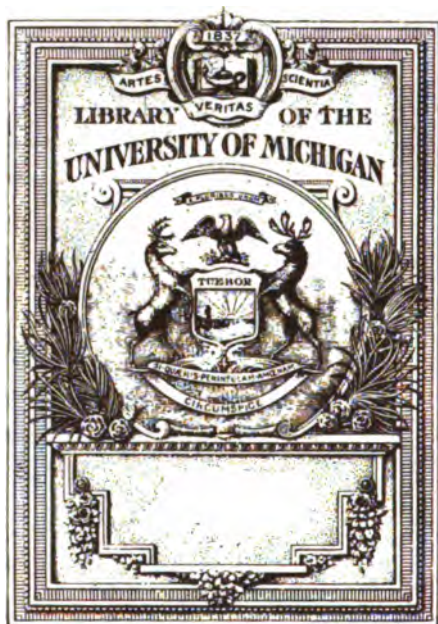
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**LEGISLATURE OF WEST VIRGINIA**

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**BILLS OF THE**

**HOUSE OF DELEGATES**

**OF**

**Regular and Extra Sessions**

**1919**



**CHARLESTON, W. VA.  
THE TRIBUNE PRINTING CO.  
1919**



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# House Bill No. 44

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AN ACT to amend and re-enact chapter three of the acts of the legislature of one thousand nine hundred and nine, incorporating the city of Huntington, as amended by chapter seventy-three of the acts of the legislature of one thousand nine hundred and thirteen, and chapter seven of the acts of the legislature of one thousand nine hundred and fifteen, and to repeal certain sections of the said chapters of said acts, and to repeal all acts or parts of acts inconsistent with the provisions of this act, and to consolidate into one act the whole charter of the city of Huntington.

*Be it enacted by the Legislature of West Virginia:*

That chapter three of the acts of the legislature of West Virginia of one thousand nine hundred and nine, incorporating the city of Huntington, as amended by chapter seventy-three of the acts of the legislature of West Virginia of one thousand nine hundred and thirteen, and as amended by chapter seven of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, be amended and re-enacted, and that certain sections of the said chapters and acts be repealed, and that all acts and parts of acts inconsistent with the provisions of this act be repealed, and to incorporate and consolidate into one act a charter for said city of Huntington as constituted by this act to read as follows:

## ARTICLE I.

### *The City of Huntington.*

Section 1. That part of the county of Cabell included in the 2 limits hereafter mentioned in section two is hereby made a city 3 corporate and body politic by the name of "The City of Hunting-- 4 ton," and as such shall have perpetual succession and a common seal, 5 and by that name may sue and be sued, plead and be impleaded, and 6 purchase, lease, sell and hold real and personal property necessary 7 to the purposes of said corporation.

*Corporation Limits.*

Sec. 2. The corporation territory limit of the city of Huntington shall be as follows, to-wit:

Beginning at a stake at low water mark on the Ohio river (southerly side thereof), about one-half mile above the mouth of Four Pole Creek, and at the intersection of the easterly line of the Williams land with said low water mark; thence easterly and up the Ohio river, with low water mark thereof, to its intersection with low water mark of the easterly side of the Guyandotte river; thence southerly, with the low water mark of Guyandotte river, with the easterly side thereof, to a point directly opposite the mouth of the Crump branch, a tributary of said Guyandotte river on the westerly side thereof; thence westerly in a straight line and crossing Guyandotte river to the mouth of said Crump branch; thence southerly with the westerly line of the Isaac Cump lands to what is known as the Military line; thence westerly with said Military line to its intersection with the south-easterly corporation line of the city of Huntington as heretofore constituted by chapter one hundred and fifty of the acts of the legislature of one thousand nine hundred and one, it also being the easterly line of the lands of the Huntington Land Company (formerly the Central Land Company of West Virginia); thence with said corporation line (and likewise line of said land company), in a south-westerly direction, crossing Four Pole creek, to the south-east corner of the lands of said land company (and likewise the south-east corner at said corporation boundary); thence following the lines of said corporation line (and likewise the lines of said land company), in a westerly and northerly direction, respectively, to and crossing said Four Pole creek to the north bank thereof; thence in a westerly direction and down Four Pole Creek with the north bank thereof, to the intersection of said creek with the southerly line of the right of way of the Chesapeake and Ohio Railway company; and continuing westerly with said southerly line of said railway right of way to its intersection with the easterly line of the Williams land; thence northerly with said easterly line of said Williams land to the beginning, and the corporate limits of the city of Huntington as defined and embraced within this act and charter shall be and remain unchanged

38 hereby and in exact accordance with the limits thereof prior to  
39 the passage and at the time of the passage of this act.

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*Boundaries of Wards.*

Sec. 3. The territory of said city shall be divided into seven  
2 (7) wards, and such divisions shall be as follows:

3 First ward—To include the territory lying west of First street  
4 east, projected southerly to the south corporation line.

5 Second ward—To include the territory lying east of First  
6 street and west of Tenth street, and between the Ohio river and  
7 the Chesapeake and Ohio right of way.

8 Third ward—To include the territory east of Tenth street and  
9 west of Seventeenth street, between the Ohio river and the Chesa-  
9-a peake and Ohio right of way.

10 Fourth ward—To include the territory east of Seventeenth  
11 street and west of Twenty-eighth street, between the Ohio river  
12 and Chesapeake and Ohio right of way.

13 Fifth ward—To include the territory east of Twenty-eighth  
14 street between the Ohio river and Chesapeake and Ohio right of  
15 way to Guyandotte river, and that portion of the city of Hunting-  
16 ton east of Guyandotte river.

17 Sixth ward—To include the territory east of First street and  
18 west of Sixteenth street between the Chesapeake and Ohio right of  
19 way and the south corporation line.

20 Seventh ward—To include the territory east of Sixteenth  
21 street to Guyandotte river, and between the Chesapeake and Ohio  
22 right of way and the south corporation line.

23 It is *provided, however*, that the board of commissioners here-  
24 after provided for, after the expiration of three years from the  
25 time this act takes effect, may, by ordinance, fix the boundaries and  
26 increase the number of wards, but such ordinance shall not be  
27 effective until it is confirmed by the citizens' board by a majority  
28 of said board.

ARTICLE II.

*Municipal Authorities.*

Sec. 4. The municipal authorities of the city of Huntington  
2 shall be four commissioners and a mayor, who shall constitute a board  
3 of commissioners, and shall be known as the "Board of Commis-  
4 sioners of the City of Huntington."

*Corporate Powers.*

Sec. 5. All the corporate powers of said city shall be vested in  
2 and exercised by the board of commissioners, or under its authority,  
3 except as otherwise provided in this act.

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Sec. 6. The board of commissioners of said city shall have  
2 and are hereby granted power to have said city surveyed; to open,  
3 vacate, broaden, change grade of, grade and pave streets, side-  
4 walks and gutters, for public use, and to alter, improve, embellish  
5 and ornament and light the same, and to construct and maintain  
6 public sewers and laterals, and shall in all cases have power and  
7 authority to assess upon and collect from the property benefited  
8 thereby such part of the expense thereof as shall be fixed by ordi-  
9 nance, except as hereinafter provided; to have control of all  
10 streets, avenues, roads, alleys and grounds for public use in said  
11 city, and to regulate the use thereof and driving thereon, and to  
12 have the same kept in good order and free from obstruction, pol-  
13 lution or litter on or over them; to have the right to control all  
14 bridges within said city, and the traffic passing thereover; to  
15 change name of any street, the renumbering of houses on any  
16 street, avenue or road therein; to regulate and determine the  
17 width of streets, sidewalks, roads and alleys; to order and direct  
18 the curbing and paving of sidewalks and footways for public use  
19 in said city, to be done and kept clean and in good order by the  
20 owners of adjacent property; to enter into a contract with any  
21 internal improvement company for the joint ownership of any  
22 bridge by the city, and such company, upon such terms as may  
23 be prescribed in the contract, but such bridge shall be a public  
24 highway, and the interest of the company shall be only such pro-  
25 portionate part thereof as it may pay for; to prohibit and punish  
26 the abuse of animals; to restrain and punish vagrants, mendi-  
27 cants, beggars, tramps, prostitutes, drunken or disorderly persons  
28 within the city, and to provide for their arrest and manner of  
29 punishment; to prohibit and punish by fine, the bringing into the  
30 city by steamboats, railroads, or other carriers, of paupers, or  
31 persons afflicted with contagious diseases; to control and suppress  
32 disorderly houses, houses of prostitution or ill fame, houses of  
33 assignation and gaming houses, or any part thereof, and to punish  
34 gaming; to prohibit within said city or within one mile thereof  
35 slaughter houses, soap, or glue factories and houses of like kind;  
36 to control the construction and repair of all houses, basements,

37 walls, bridges, culverts and sewers, and to prescribe and enforce  
38 all reasonable regulations affecting the construction regulations  
39 of the same and to require permits to be obtained for such build-  
40 ings and structures, and plans and specifications to be first sub-  
41 mitted to a city architect or building inspector; to control the  
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42 opening and construction of ditches, drains, sewers, cesspools and  
43 gutters, and to deepen, widen and clear the same of stagnant  
44 water or filth, and to prevent obstruction therein, and to deter-  
45 mine at whose expense the same shall be done; to build and main-  
46 tain fire station houses, police stations, and police courts, and to  
47 regulate the management thereof; to acquire, lay off, appropriate  
48 and control public grounds, squares and parks, either within or  
49 without the city limits as hereinafter defined, and, when the board  
50 of commissioners determines that any real estate is necessary to  
51 be acquired by said city for any such purposes, or for any public  
52 purpose, the power of eminent domain is hereby conferred upon  
53 said city, and it shall have the right to institute condemnation  
54 proceedings against the owner thereof in the same manner, to the  
55 extent and upon the same conditions as such power is conferred  
56 upon public corporations by chapter forty-two of the code of West  
57 Virginia, of the edition of one thousand nine hundred and six,  
58 and as now amended; to purchase, sell, lease or contract for and  
59 take care of all public buildings and structures and real estate,  
60 including libraries and hospitals, deemed proper for the use of  
61 said city; and for the protection of the public; to cause the re-  
62 moval of unsafe walls, or buildings, and the filling of excavations;  
63 to prevent injury or annoyance to the business of individuals from  
64 anything dangerous, offensive or unwholesome; to abate or cause  
65 to be abated all nuisances, and to that end and thereabout to sum-  
66 mon witnesses and hear testimony; to regulate the keeping of gun  
67 powder and other combustible or dangerous articles; to regulate,  
68 restrain or prohibit the use of firecrackers or other explosives or  
69 fireworks, and all noises or performances, which may be dan-  
70 gerous, annoying to persons or tend to frighten horses or other  
71 animals; to provide and maintain proper places for the burial of  
72 the dead, and to regulate interments therein upon such terms and  
73 conditions as to price and otherwise as may be determined; to  
74 provide for shade and ornamental trees and the protection of the  
75 same; to provide for the making of division fences; to make proper  
76 regulations for guarding against danger of damage from fires; to

77 provide for the poor of the city, and to that end may contract with  
78 the proper authorities of Cabell county to keep and maintain the  
95 prohibit them and all other animals and fowls running at large;  
79 poor or any number thereof, upon terms to be agreed upon; to  
80 make suitable and proper regulations in regard to the use of the  
81 streets and alleys for street cars, railroad engines and cars, and

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82 to regulate the running and operation of the same as to prevent  
83 injury, inconvenience or annoyance to the public; to prohibit  
84 prize fighting, cock and dog fighting; to license, tax, regulate or  
85 prohibit theaters, circuses, the exhibit of showmen and shows of  
86 anv kind, and the exhibition of natural or artificial curiosities,  
87 caravans, menageries and musical exhibitions, and performances,  
88 and other things or business on which the state does or may exact  
89 a license tax, to organize and maintain fire companies and to  
90 provide necessary apparatus, engines, and implements for the  
91 same; to regulate and control the kind and manner of plumbing  
92 and electric wiring for the protection of the health and safety of  
93 said city; to levy taxes on persons, property and licenses; to  
94 license and tax dogs and other animals, and regulate, restrain and  
96 to provide revenue for the city and appropriate the same to its  
97 expenses; to adopt rules for the transaction of business and for  
98 its own regulation and government; to promote the general wel-  
99 fare of the city, and to protect the persons and property of citi-  
100 zens therein; to regulate and provide for the weighing of produce  
101 and other articles sold in said city and to regulate the trans-  
102 portation thereof, and other things, through the streets; to have  
103 the sole and exclusive right to grant, refuse or revoke any and  
104 all licenses for the carrying on of any business within said city  
105 on which the state exacts a license tax; to establish and regulate  
106 markets and to prescribe the time for holding the same; and  
107 what shall be sold in such market, and to acquire and hold  
108 property for market purposes; to regulate the placing of signs,  
109 bill boards, posters and advertisements in, on or over the streets,  
110 alleys, sidewalks and public ground of said city; to preserve and  
111 protect the peace, order and safety and health of the city, and its  
112 inhabitants, including the right to regulate the sale and use of  
113 cocaine, morphine, opium, and poisonous drugs; to appoint and  
114 fix the places of holding city elections; to erect, own, lease, au-  
115 thorize or prohibit the erection of gas works, telephone plants  
116 electric light works and water works, or ferry boats, in or near the



117 city, and to operate the same, and sell the products and services  
118 thereof to the inhabitants and industries of the city, and the in-  
119 habitants and industries of the territory outside of the city, under  
120 such rules and regulations, and for such compensation as the board  
121 of commissioners may from time to time prescribe, and to do any  
122 and all things necessary and incidental to the conduct of such busi-  
123 ness, including the right in any franchise hereafter granted to fix  
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124 and change the charges and prices for which the service or article  
125 of the person or company operating any such plant or works, or any  
126 other public utilities or public service corporation under such  
127 future franchise, may be held by their patrons or consumers; to  
128 build, hold, purchase, own and operate toll bridges; to provide for  
128-a the purity of water, milk, meats and provisions offered for  
129 sale in said city, and to that end provide for a system of inspecting  
130 the same and making and enforcing rules for the regulation of  
131 their sale, and to prohibit the sale of any unwholesome or tainted  
132 milk, meats, fish, fruit, vegetables, or the sale of milk containing  
133 water or other things not constituting a part of pure milk; to pro-  
134 vide for inspecting dairies and slaughter houses, whether in or out-  
135 side of the city, where the milk and meat therefrom are offered for  
136 sale within said city; to prescribe and enforce ordinances and rules  
137 for the purposes of protecting the health, property, lives, decency,  
138 morality and good order of the city and its inhabitants, and to  
139 protect places of divine worship in and about the premises where  
140 held, and to punish violation of such ordinances even if the offense  
141 under and against the same shall constitute offenses under the law  
142 of the state of West Virginia or the common law; to provide for  
143 the employment and safe keeping of persons who may be committ-  
144 ed in default of any payment of fines, penalties or costs under this  
145 act, who are otherwise unable or fail to discharge the same, by  
146 putting them to work for the benefit of the city upon the streets  
147 or other places provided by said city, and to use such means to  
148 prevent their escape while at work as the board of commissioners  
149 may deem expedient; and the board of commissioners may fix a  
150 reasonable rate per day as wages to be allowed such persons until  
151 the fine and costs against them are thereby discharged; to compel  
152 the attendance at public meetings of the members of the board of  
153 commissioners; to have and exercise such additional rights, privi-  
154 leges and powers as are granted to municipalities by chapter forty-  
155 seven of the code of West Virginia of the edition of one thousand

156 nine hundred and six. For all such purposes, except that of taxa-  
157 tion, the board of commissioners shall have jurisdiction, when  
158 necessary, for one mile beyond the corporate limits of said city, ex-  
159 cepting any other municipal corporation or part of any other state  
160 within said one mile limit; *provided, however*, that nothing herein  
161 contained shall be construed as limiting the city from going be-  
162 yond its territorial limits to lease, purchase or erect, operate  
163 and maintain a water plant, or system, or any part thereof,

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164 or from furnishing and selling water to consumers outside the  
165-166 city.

167 Said city of Huntington, as constituted by this act, shall re-  
168 tain, keep and succeed to all rights, privileges, property, interest,  
169 claims and demands heretofore acquired by, vested in or trans-  
170 ferred to the said city of Huntington, and said city of Central  
171 City, and the town of Guyandotte as heretofore constituted.

172 And the board of commissioners shall have the right to estab-  
173 lish, construct and maintain landings, ferries, wharves and docks  
174 on any ground which does or shall belong to said city, or which it  
175 shall acquire, and to sell, lease, repair, alter, or remove any such  
176 landings, ferries, wharves, buildings, or docks which have been, or  
177 shall be so constructed, and to levy and collect reasonable duty on  
178 vessels, and other crafts coming to, or using said landings, ferries,  
179 wharves, docks and buildings, and to preserve and protect the  
180 peace and good order at the same, and regulate the manner in  
181 which they shall be used; and to have the sole right, under state  
182 laws and in the same manner as now control county courts, to es-  
183 tablish, construct, maintain, regulate and control all such wharves,  
184 docks, ferries and landings within the corporate limits.

185 To the end that the city and its inhabitants and industries  
186 may be furnished with an adequate supply of water for all needful  
187 purposes, the said city is hereby authorized to acquire and hold by  
188 gift, purchase, condemnation, or otherwise, such real estate or  
189 interest therein or personal property either within or without the  
190 city limits, as may from time to time be necessary or convenient,  
191 for use in connection with such plants, works, structures, pipe  
192 lines or other property, in and about leasing, constructing, operat-  
193 ing and maintaining a water works and system; which water works  
194 and system may also be used to supply water to the inhabitants  
195 and industries of such territory outside the city, as the board of

198 The water rates shall be fixed by the board of commissioners  
199 on the principle only of producing revenue, and discrimination in  
200 rates is prohibited in said city; and the city is hereby given the  
201 same power and authority to collect water rents by distress, levy  
202 and sale as are conferred upon it from the collection of taxes.

9

Sec. 7. The city of Huntington shall have an additional board known and styled "Citizens Board of the City of Huntington" and shall be comprised of three persons from each ward of the city who shall be voted for and elected by the voters of each ward respectively in the manner hereinafter prescribed. The members of said board shall be allowed the sum of five dollars each for his attendance at each meeting of said board.

Sec. 9. The city clerk shall be ex-officio clerk of the citizens  
2 board, and shall perform such duties pertaining thereto as the board  
3 may require of him.

Sec.11. If any person elected to the citizens board fail to  
2 qualify as herein provided within sixty days after his said election,

3 or shall after having qualified, resign from the board, or move from  
4 the city, his office shall be vacated, and the citizens board shall, by a  
5 majority vote of the members voting thereon, fill such vacancy for  
6 the unexpired term with some person from the same ward and of  
7 the same political party as the person whose vacancy of office is be-  
8 ing filled.

Sec. 12. The citizens board shall, likewise by a majority vote  
2 of the members voting thereon, fill any vacancy in the office of presi-  
3 dent of its body by electing another member of the board to the of-  
4 fice of president for the unexpired term.

Sec. 13. No franchise, or extension of franchise, shall be  
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2 valid unless it shall have been ratified and approved by a majority  
3 of all the members elected to the citizens board, and the vote of said  
4 board shall be taken by roll call of the members and entered of rec-  
5 ord in the minutes of the meeting of said board.

Sec. 14. The citizens board shall have the right to hear, con-  
2 sider and act on charges against any member of the board of com-  
3 missioners, and, after having heard proof of such charges, may re-  
4 move such commissioner and declare his office vacant by two-thirds  
5 vote of all the members elected on said board, and the vote thereon  
6 shall be by roll call of the members and entered of record in the  
7 minutes of the meeting. But before such commissioner shall be  
8 put on trial on said charges, he shall have at least ten days' written  
9 notice of the nature of said charges, and the time and place of a  
10 hearing of said charges, shall remove said commissioner from office,  
11 thereby declaring a vacancy in his said office of commissioner, it  
12 shall, through its president or otherwise, cause its action there-  
13 about to be at once certified to the board of commissioners.

Sec. 15. No commissioner shall be removed from his office ex-  
2 cept for one of the causes mentioned in section six of article four of  
3 the constitution of West Virginia:

Sec. 16. The citizens board shall make proper rules for its  
2 government not contrary or inconsistent with any of the provisions  
3 of this act or the authority vested in the board of commissioners;  
4 and it shall cause a record of its meetings and proceedings to be  
5 kept and recorded by its clerk in a well bound book, which shall re-  
6-7 main in the custody and at the office of the city clerk, open to  
8 public inspection. The minutes of the meeting and proceedings of  
9 said board, after recordation and when signed by its president, shall  
10 be admitted as evidence in any court of record in this state.

## ARTICLE III.

*Department of City Government.*

Sec. 17. The government of the city of Huntington shall be  
2 divided into five (5) departments, to-wit:

3 Department of fire, police and law.

4 Department of finance and taxation.

5 Department of streets and sewers.

6 Department of health and charity.

7 Department of public utilities, wharf, public buildings and  
8 grounds.

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Sec. 18. The mayor shall be at the head of the department of  
2 fire, police and law, and shall, at the first regular meeting of the  
3 board of commissioners following their election and qualification,  
4 designate himself as such, and each of the other commissioners at  
5 the head of one of the said departments of government, and the said  
6 commissioner thus assigned shall be styled commissioner of that  
7 department, and the commissioner of finance and taxation shall be  
8 the treasurer of the city of Huntington, and as such shall perform  
9 all the duties pertaining to said office, and shall execute the bond  
10 as provided for in section thirty nine of this act, and shall be al-  
11 lowed an assistant treasurer to be selected by him and confirmed by  
12 the board of commissioners.

13 And the commissioner assigned to the department of streets  
14 and sewers shall also discharge all the duties of street commission-  
15 er and all other duties pertaining to said department, and shall be  
16 allowed an assistant commissioner of streets, to be appointed by him  
17 and confirmed by the board of commissioners.

18 And the commissioner at the head of the department of health  
19 and charity shall perform the duties pertaining to said depart-  
20 ment and may be allowed such assistants to be selected by him and  
21 confirmed by the board of commissioners as may be deemed neces-  
22 sary, and said commissioner shall be and act as the police judge of  
23 said city and shall perform and discharge all the duties pertaining  
24 to the office of police judge.

Sec. 19. The commissioner of each department shall keep a  
2 public office at which he may be found or communicated with dur-  
3 ing stated hours to be fixed by him for the convenience of the public,  
4 unless his official duties call him elsewhere.

Sec. 20. If two or more persons for the office of commissioner,

2 or member of the citizens board, or for the office of mayor, receive  
 3 an equal number of votes at any election for the said office, they  
 4 shall decide by casting lots as to which of them shall be elected.

Sec. 21. The mayor shall have and exercise all the rights,  
 2 powers and duties of mayor conferred by the constitution and laws  
 3 of this state, and those conferred by the terms of this act. He shall  
 4 be the presiding officer of the board of commissioners, and a mem-  
 5 ber thereof, and as such shall have the right to vote on all ap-  
 6 pointments made by the board of commissioners and on all ques-  
 7 tions arising before the board. He shall be chief executive officer of  
 8 the city and shall see that the laws and ordinances of the city and  
 9 resolutions and orders of the board of commissioners are enforced,

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10 and that peace and good order of the city are preserved, and that  
 11 the persons and property therein are protected. He shall per-  
 12 form such other duties of the office of mayor or commissioner as  
 13 the board of commissioners may from time to time prescribe, and  
 14 shall also as head of the department of police, fire and law, appoint  
 15 the chief of police and the chief of fire department, and by the ad-  
 16 vice and consent of the board of commissioners shall appoint all  
 17 members of the police force, but such members of said police force  
 18 shall be chosen from the lists provided by the civil service board  
 19 under the provisions of this act.

## ARTICLE IV.

### *Additional Officers.*

Sec. 22. In addition to the municipal authorities mentioned  
 2 in section four of this act, said city shall have a city clerk, treas-  
 3 urer, auditor, police judge, city attorney, chief of police, chief of  
 4 fire department, city engineer, city building inspector and health  
 5 officer, and such other officers and agents as the board of commis-  
 6 sioners from time to time may create and employ, but that no new  
 7 office shall be made or created by the board of commissioners with-  
 8 out the approval of the citizens board. The election of all ap-  
 9 pointive officers named or provided for in this section shall be  
 10 vested in the board of commissioners, except as otherwise provided  
 11 by the provisions of this act.

## ARTICLE V.

### *Qualification of Voters.*

Sec. 23. Every person qualified by law to vote for members

2 of the legislature of the state, and who shall have been a resident of  
3 said city for sixty days, preceding the day of election, and a bona  
4 fide resident of the election precinct in which he offers to vote,  
5 shall be entitled to vote at all elections held in said city by or un-  
6 der the corporate authorities thereof.

Sec. 24. Candidates to be voted for at any municipal or gen-  
2 eral election for mayor or members of the board of commissioners,  
3 or members of the citizens board, shall be nominated by a primary  
4 election held upon the fourth Monday in April preceding said elec-  
5 tion, in the manner hereinafter prescribed; provided, however, that  
6 where said candidates are to be nominated other than by political  
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7 party, in that case the nomination may be made by petition in ac-  
8 cordance with the statute law of the state of West Virginia; and  
9 provided further that no political party shall nominate more than  
10 one candidate for the office of board of commissioner from the same  
11 ward, and if two or more candidates of the same political party, and  
12 of the same ward, shall receive a greater number of votes than can-  
13 didates of other wards for the same office, then the candidate re-  
14 ceiving the highest number of votes of said ward shall be nomin-  
15 ated, and the vote received by the other candidates of the same  
16 ward shall be disregarded. And should a vacancy occur upon any  
17 ticket for any office after the nominations have been made, the city  
18 clerk shall forthwith notify the chairman of the city committee of  
19 the political party to which such candidate belonged and the said  
20 committee shall fill the vacancy and certify the same to the city  
21 clerk. The nominations for officers shall be made by a primary  
22 election held under the direction of the city, which shall be known  
23 as a general primary election, and all the candidates for office, of  
24 whatsoever political party, shall be nominated therein. The ex-  
25 pense of such primary shall be paid by the city out of the contin-  
26 gent fund, and such precincts shall be maintained and kept open  
27 on the election day as will give the people of the city a fair op-  
28 portunity to vote. The officers for both primary elections and gen-  
29 eral election held under this act after the election of May twenty-  
30 sixth, one thousand nine hundred and nineteen, shall be selected  
31 from the two political parties which cast the highest number of  
32 votes in the next preceding election, and the majority of such elec-  
33 tion officers shall be so selected from such political party as elected  
34 the mayor of said city at such proceeding election. *Provided, how-*  
35 *ever, that any political party which may have a candidate upon the*

36 ballot shall be entitled to have in each precinct a challenger, who  
37 shall have the right to remain in said precinct until the ballots are  
38 counted and the returns certified. The election officers for all  
39 elections held under this act shall consist of the same number of  
40 commissioners and clerks as are required by the state election laws,  
41 but no city official or employee shall be appointed or serve as an  
42 election officer. The returns from all primary elections shall be  
43 certified by the election officers holding same to the city clerk, and  
44 after the election of May twenty-sixth, one thousand nine hundred  
45 and nineteen, same shall be canvassed by the citizens board, as a  
46 canvassing board, and the result ascertained and declared within  
47 three days after such primary election, and said board shall cer-

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48 tify forthwith after such canvass the names of the successful can-  
49 didates of all the political parties to the city clerk, whose duty it  
50 shall be, in conjunction with two ballot commissioners of opposite  
51 political parties, appointed by the citizens board, to make up and  
52 have printed, in accordance with the statute of the state, the bal-  
53 lot for the general city election, and immediately upon receiving  
54 the certification of the result of said primary the clerk of the city  
55 shall forthwith publish, the same in two newspapers of general  
56 circulation in said city of Huntington, said publication to be made  
57 each day for ten days at least preceding said election. All prim-  
58 ary elections shall be opened and closed, and in every particular  
59 conducted in accordance with the law of the state applicable to  
60 primary and general elections, except as herein provided. Any  
61 person desiring to become a candidate in any primary for the of-  
62 fice of mayor, commissioner, or member of the citizens board, shall  
63 file with the clerk of the said city a written request that his name  
64 be placed upon the primary ballot for the office for which he is a  
65 candidate, which request shall give the full name of the party so  
66 desiring to become a candidate, and his address and the political  
67 party to which he belongs, and the office for which he is a candi-  
68 date.

69 At least twenty-five (25) days prior to the time set for any  
70 primary election held after the twenty-sixth day of May, one thous-  
71 and nine hundred and nineteen, the said citizens board, known as  
72 the election board, shall appoint two ballot commissioners of op-  
73 posite political parties who, with the city clerk, who shall be chair-  
74 man of the said primary election ballot commission, shall twenty  
75 days before said primary meet and make up the said ticket to be



76 voted in the said primary, and who shall be governed in all parti-  
77 culars with respect to the said primary election as are ballot com-  
78 missioners for general elections in this state, and when so made  
79 by the said primary ballot commission the ticket shall be pub-  
80 lished at least two weeks before said primary election in two news-  
81 papers with general circulation of opposite politics in said city of  
82 Huntington; and the said city clerk, as chairman of said ballot  
83 commission, shall have the necessary ballots prepared and neces-  
84 sary books in which returns from various precincts may be kept,  
85 made, and shall turn over same to the commissioner of said prim-  
86 ary election in the same manner as required by the county clerk in  
87 general elections; and the number of ballots delivered at each poll-  
88 ing place shall be equal to twice the number of votes cast in the

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89 precinct at the last general election in said city. Persons who are  
90 qualified to vote at the general city election shall be qualified to  
91 vote at the said primary election, and no person shall be permitted  
92 or allowed to vote in any primary or general election held under  
93 this charter unless he has been registered as hereinafter provided.

94 For the purpose of the primary election to be held under this  
95 act on the twenty-eighth day of April, one thousand nine hundred  
96 and nineteen, and the general election to be held hereunder on the  
97 twenty-sixth day of May, one thousand nine hundred and nineteen,  
98 all persons shall be taken as duly qualified voters in the registra-  
99 tion lists of voters of the various voting precincts of the said city  
100 of Huntington used as such registration lists in the general elec-  
101 tion held under the laws of the state of West Virginia on Tuesday,  
102 November fifth, one thousand nine hundred and eighteen, and now  
103 of record in the office of the clerk of the county court of said Cabell  
104 county.

105 It shall be the duty of the clerk of the said city of Huntington  
106 to procure from the clerk of the county court of said Cabell coun-  
107 ty, two (2) duly certified copies of such registration lists of voters  
108 as used in the general election held November fifth, one thousand  
109 nine hundred and eighteen, for each voting precinct in said city of  
110 Huntington, and he shall so procure same and furnish one copy  
111 thereof to each of the respective registrars for such precincts to be  
112 used by them in making up the registration lists of voters for the  
113 said city elections as hereinafter prescribed, the costs of procuring  
114 which shall be paid by the said city.

115 The registrars appointed as provided for in this act shall, im-

116 mediately upon their appointment as such, appear before the clerk  
117 of the said city of Huntington and qualify and take the oath in the  
118 manner and form prescribed by the election laws of the state of  
119 West Virginia before acting as such, and the said registrars shall  
120 sit at the respective voting places in the two precincts for which  
121 they were so appointed registrars on the sixteenth and seventeenth  
122 days of April, one thousand nine hundred and nineteen, for the  
123 the purpose of registering all qualified voters of such precincts  
124 whose names do not appear in the registration lists used in the  
125 general election of November fifth, one thousand nine hundred  
126 and eighteen, and to add the names of such qualified voters to  
127 such lists and to amend and correct the said registration lists for  
128 use in the primary election to be held under this act on the twenty-  
129 eighth day of April, one thousand nine hundred and nineteen, and  
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169 by the general election laws of the state of West Virginia for the  
169-a registration of voters for such state elections.

170 The citizens board shall appoint the registrars to prepare the  
171 registration lists of legal voters prescribed by this act at least  
172 thirty (30) days prior to any election, primary or general, to be  
173 held hereunder.

174 The officers of all primary elections shall take the same oath  
175 that is prescribed to be taken by the statute law of the state of  
176 West Virginia by officers of an election in a general election, and  
177 in the same manner, and any commissioner or election clerk ap-  
178 pointed as aforesaid by the said election board, who shall wilfully  
179 or negligently fail to perform the duties required of him under  
180 this act, shall be guilty of a misdemeanor and on conviction there-  
181 of shall be fined not less than twenty-five nor more than one hun-  
182 dred dollars.

183 The names of the said candidates in all primary elections  
184 shall be arranged alphabetically, or in the manner provided by the  
185 state law, upon the said ballot under a heading which shall desig-  
186 nate the politics of the said candidates, and each ticket shall be  
187 upon a separate ballot.

188 The method of voting in all elections, primary and general,  
189 shall be the same as is prescribed by statute laws of the state of  
190 West Virginia for such primary and general elections.

191 The election commissioners, when the polls have been closed,  
192 shall certify the returns as are the returns in a general election  
193 certified, and deliver the ballot boxes containing the election rec-

194 ords and ballots to the clerk of the said city upon the evening of  
195 the day the said primary shall be held, and said clerk shall be  
196 custodian thereof until such returns have been canvassed by the  
197 citizens board, known as the election board.

198 All the provisions of the state law governing general elections  
199 with regard to illegal voting or any corrupt practice in connection  
200 with any primary election held under this act are made applicable  
201 thereto, and the said commissioners of the said primaries are giv-  
202 en all the powers given to the commissioners of election by the gen-  
203 eral laws of the state of West Virginia, and no policeman or mem-  
204 ber of the fire department shall take part therein, or in any gen-  
205 eral election, except to vote, and if such policeman or member of  
206 the fire department shall take part in any election held under this  
207 act, either for or against any candidate, he shall forfeit his office  
208 or position, and upon complaint to the mayor of said city of any

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209 citizen that any such policeman or member of fire department has  
210 taken any part in any such election, except to vote, he shall sus-  
211 pend such policeman or member of fire department, without pay,  
212 until a hearing shall be had on such complaint. All such com-  
213 plais shall be in writing setting forth the particulars in which  
214 such person or persons has violated this provision, signed and  
215 sworn to by the party making same and filed with the mayor, and  
216 it shall be the duty of the mayor upon the filing of said complaint  
217 with him to suspend, without pay, the person or persons named in  
218 the complaint, and thereupon the board of commissioners shall  
219 hear and determine the charge made. The suspended employee or  
220 appointee shall have at least ten days notice of the time and place  
221 set for hearing of said complaint, and a copy of said complaint  
222 shall be served upon the person accused at the time notice is serv-  
223 ed, and if upon the hearing of such complaint said policeman or  
224 member of the fire department is found guilty thereof, he shall be  
225 immediately discharged by the said board and he shall be ineli-  
226 gible to reappointment to said place, office or employment.

227 For the purpose of holding the first general primary elec-  
228 tion and general election under this act a special election board  
229 is hereby created, consisting of six persons, three republicans and  
230 three democrats, viz: W. F. Kahler, Erskine McClain and T.  
231 C. Preston, republicans, and William Arnett, James Murphy  
232 and F. F. McCullough, democrats, and it shall be the duty of  
233 said special election board, or a majority thereof, to meet at

234 least twenty-five days prior to the time set for the holding of  
235 said primary election of April twenty-eighth, one thousand nine  
236 hundred and nineteen, and appoint two registrars for each voting  
237 precinct in the said city of Huntington, who shall be of opposite  
237-a politics and appoint two ballot commissioners of opposite  
238 political parties who with the city clerk, shall constitute a ballot  
239 commission as required by this act and the laws of the state for  
240 the purpose of preparing ballots for a general election in this  
241 state. And it shall be the duty of said special election board to  
242 appoint the ballot commissioners and registrars and the election  
243 officers to hold the first general primary and the first general  
244 election under this act, and they shall be governed in making  
245 said appointments by the provisions of this act and the general  
246 laws of the state, and the election officers so appointed shall be  
247 vested with all powers and perform all duties devolving upon  
248 like election officers appointed under the general election laws  
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249 of the state of West Virginia for its elections, and the dominant  
250 party shall have the majority of the election officers at each  
251 precinct for the election to be held by the special election board  
252 hereby created, and the dominant party shall be held to be the  
253 party which elected the mayor at the last city election. And  
254 the said special election board so created for the purpose of hold-  
255 ing and conducting the said primary election of April twenty-  
256 eighth, one thousand nine hundred and nineteen, and the gen-  
257 eral election of May twenty-sixth, one thousand nine hundred  
258 and nineteen, shall, in respect to said two elections, be vested  
259 with all the powers vested in and devolving upon the county  
260 court of said Cabell county with respect to elections held, both  
261 primary and general, under the laws of the state of West Vir-  
262 ginia, insofar as such duties and powers are not in conflict with  
263 other provisions of this act.

264 In all elections, both primary and general, held for the city  
265 of Huntington under the provisions of this act, after the elec-  
266 tion of May twenty-sixth, one thousand nine hundred and nine-  
267 teen, the citizens board of the said city of Huntington shall be  
268 vested with all the powers and perform all the duties vested in  
269 and devolving upon the county court of Cabell county under  
270 the general election laws of the state of West Virginia with re-  
271 spect to state elections, and in appointing the election officers for  
272 any city election the dominant party shall be entitled to a

majority representation on the election boards at each precinct in said city, and the dominant party shall be held to be the party that elected its mayor of the city at the next preceding election, and the clerk of the said city of Huntington in all elections of said city held under the provisions of this act shall be vested with all powers and perform all the duties vested in and devolving upon the clerk of the county court of the said Cabell county under the said election laws of said state of West Virginia with reference to state elections.

## ARTICLE VI.

### *Election of Officers.*

Sec. 25. On the fourth Monday in May, one thousand nine hundred and nineteen, there shall be elected by the qualified voters of the city, a mayor and two commissioners who shall hold their offices from the time of their qualification on and from the second Monday in June, then next succeeding, for the term of three years and until their successors are elected and a majority thereof shall qualify, and the two commissioners, Mat Miser and L. D. Newman, who are now holding the office of commissioner under the present laws governing said city by election by the people shall remain in office until the expiration of the term for which they were elected and until their successors shall be chosen in the manner herein provided. When the terms of office of the said two present commissioners shall expire or if the term of either or both of them shall be otherwise sooner terminated, their successors shall be chosen in the same manner as provided in the act for the filling of vacancies in the office of commissioner, and on the fourth Monday in May, one thousand nine hundred and twenty-two, and on the same day in every third year thereafter, there shall be elected by the qualified voters of the city, a mayor and four commissioners who shall hold their offices from the time of their qualification on and from the second Monday in June, then next succeeding, for the term of three years and until their successors are elected and a majority of them shall qualify. *Provided, however,* that if this act is not in effect a sufficient time to make the registration of voters and hold the primary election for the first election, herein provided, then the said primary election for the first election hereunder shall be held on the second Monday in August, one thousand nine hundred and nineteen, and the

29 general election hereunder shall be held on the second Monday in  
30 September, one thousand nine hundred and nineteen, and all the  
31 provisions of this act relating to the registration of voters, ap-  
32 pointment of ballot commissioners, appointment of election officers,  
33 the holding of said election, canvassing of returns of said election,  
34 for said first election shall apply to such primary and general  
35 election. And all persons elected to office at such first election  
36 shall hold their office until the next general election as in this  
37 act provided, and until their successors are elected and qualified.  
38 In the event that said first election shall be held on the second  
39 Monday in September, one thousand nine hundred and nineteen  
40 the commissioners of Huntington as now constituted and the  
41 citizens' board shall hold their offices respectively until the elec-  
42 tion and the qualification of a majority of the commissioners  
43 and a majority of the citizens' Board under said first election.

Sec. 26. At the election at which the mayor and commis-  
sioners shall be elected there shall also be elected by the qualified  
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3 voters of each ward of the city of Huntington three members of  
4 the citizens board from each ward, who shall at the time be resi-  
5 dents of the ward from which they are elected, and who shall hold  
6 their offices from the time of their qualification on and from the  
7 second Monday of the next succeeding June for the term of three  
8 years and until their successors are elected and a majority thereof  
9 shall have qualified, and the term of office of the present members  
10 of the citizens board shall cease and determine on the second  
11 Monday in June, one thousand nine hundred and nineteen, and  
12 they shall be superceded by the persons elected to said board at  
13 said election. A majority of said citizens board shall constitute  
14 a quorum for the transaction of business. The city clerk shall  
15 be ex-officio clerk of the citizens board and shall perform all  
16 duties pertaining thereto required of him and he shall keep in  
17 a well bound book, to be part of the city records, a full and com-  
18 plete record of all acts and proceedings of said citizens board  
19 and of all orders made by it.

Sec. 26-a. No person shall be eligible to the office of mayor,  
2 commissioner or member of the citizens board except they be a  
3 citizen entitled to vote at the election at which commissioners are  
4 elected.

Sec. 27. All elections, of whatsoever kind, held under this  
2 act shall be conducted, returned and the results thereof ascer-

3 tained and declared in the manner prescribed by the laws of the  
4 state insofar as they are not in conflict or inconsistent with  
5 the provisions of this act, and all penalties and fines of any sort  
6 whatsoever prescribed by the laws of the state relating to elections  
7 shall be applicable to all elections held hereunder. Election  
8 officers for the general elections in the city of Huntington shall be  
9 selected as follows: The citizens board, as hereinafter provided,  
10 shall be and be known as the election board, and the President of  
11 the citizens board shall be the chairman thereof; said board shall  
12 have the sole power to appoint registrars, ballot commissioners  
13 and all the election officers for all elections to be held under this  
14 charter, except the primary election of April twenty-eight, one  
15 thousand nine hundred and nineteen, and the general election of  
16 May twenty-six, one thousand nine hundred and nineteen, other-  
17-18 wise provided for herein. Such registrars, ballot commissioners  
19 and election officers, commissioners and clerks shall be by the said  
20 board appointed in accordance with the general laws in this state,  
21 except that any political party which has candidates upon the

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22 ballot shall be entitled to have a challenger within the precinct  
23 present at the holding of the said election, and at the counting of  
24 the ballots, until the same are sealed for delivery to the clerk  
25 of the city by such election commissioners. The commissioners  
26 and other election officers may be selected upon the recommenda-  
27 tion of the committees from the various parties, but the said  
28 election board shall have the right in all respects to use their  
29 judgment with regard to the appointment of such election officers,  
30 and may refuse to appoint any person as election officer who,  
31 in the opinion of the board, should not be appointed.

32 The said election board shall canvass the returns of all pri-  
33 mary elections and general elections and ascertain and declare  
34 the result thereof in the manner provided by the election laws of  
35 the state, and shall have and exercise all the powers and duties in  
36 relation to the appointment of election officers, registrars and  
37 ballot commissioners and canvassing returns of an election imposed  
38 on the county court of a county by the state election laws.

#### *Contested Elections.*

Sec. 28. All contested elections shall be heard and decided  
2 by the board of commissioners for the time being, and the con-

3 test shall be made and conducted in the same manner as provided  
4 for in such contests for county and district offices; and the board  
5 of commissioners shall conduct its proceedings in such cases as  
6 nearly as practicable in conformity with the proceedings of the  
7 county court in such cases.

*Oaths of Officers.*

Sec. 29. All officers elective, and appointive, shall make oath  
2 before some one authorized to administer oaths, that they will  
3 support the constitution of this state, and will faithfully and im-  
4 partially discharge the duties of their respective offices, to the  
5 best of their skill and judgment; that they will not administer  
6 their respective offices with the aim to benefit any political party;  
7 and, in the case of commissioners, they shall add in their oath  
8 that they will not during their term of office become pecuniarily  
9 interested directly, in any contract with the city, or the purchase  
10 of any supplies therefor. When the officer shall have made such  
11 oath in writing and filed the same with the city clerk, and shall  
12 have given bond required of and accepted from him, he shall be  
13 considered as having qualified for the office to which he was  
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14 elected or appointed; provided, that if any person elected to the  
15 office of commissioner shall not qualify for said office as herein  
16 prescribed within ten days after he shall have been officially de-  
17 clared elected thereto, said office shall ipso facto become vacant,  
18 and said vacancy shall be filled in the manner provided for in  
19 this act.

Sec. 30. Each member of the board of commissioners, and  
2 the city clerk, treasurer, auditor, city attorney, city physician,  
3 superintendent of water works, and collector of water rents, chief  
4 of police, chief of fire department, shall, before entering upon  
5 the discharge of their duties, give an official bond, conditioned  
6 for the faithful performance of their respective duties as prescrib-  
7 ed in this act or any ordinance now or hereafter passed, in amounts  
8 as follows: Each commissioner, five thousand dollars; the treasur-  
9 er, sixty thousand dollars; superintendent of water works, five  
10 thousand dollars; the collector of water rents, twenty-thousand dol-  
11 lars; the auditor, two thousand dollars; the city clerk, chief of  
12 police, and the chief of fire department, each one thousand dollars.  
13 The board of commissioners may require additional bond



14 from any of said appointive officers, and may likewise require a  
15 bond in whatever sum they may fix, of any other appointive  
16 officer. All bonds of appointive officers shall before their accep-  
17 tance, be approved by the board of commissioners; and the bond  
18 of the commissioners shall be approved by the retiring board of  
19 commissioners (common council in the first instance). All other  
20 bonds of whatsoever kind shall not be accepted until first approved  
21 by the board of commissioners. The minutes of the meeting of  
22 the board shall show all matters touching the consideration or  
23 approval of all bonds, and when said bonds are approved and  
24 accepted they shall be recorded by the city clerk in a well bound  
25 book kept by him at his office for that purpose, which book shall be  
26 open to public inspection; and the recordation of such bonds are  
27 aforesaid, shall be prima facia proof of their correctness, and  
28 they, as so recorded, shall be admitted as evidence in all the courts  
29 of this state. The city clerk shall be the custodian of all bonds,  
30 except those given by him and as to them the city treasurer shall  
31 be custodian.

32 All bonds, obligations or other writing taken in pursuance  
33 of any provisions of this act shall be made payable to "The City  
34 of Huntington," and the respective persons, and their heirs, exe-  
35 cutors, administrators and assigns bound thereby, shall be sub-

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36 jected to the same proceedings on said bonds, obligations and other  
37 writings, for enforcing the conditions of the terms hereof, by  
38 motion or otherwise, before any court of record held in and for  
39 the county of Cabell, that collectors of county levies and other  
40 sureties are or shall be subject to on their bonds for enforcing the  
41 payment of the county levies.

Sec. 31. The term of office of the mayor, the members of the  
2 board of commissioners, and the members of the citizens board,  
3 shall be for three years commencing on the second Monday in  
4 June next after the general election and ending on the Sunday  
5 next proceeding the second Monday of June in the third year  
6 thereafter, or until their successors are elected and qualified.

Sec. 32. All appointive officers (except those under civil  
2 service) shall hold for the term of three years (unless sooner re-  
3 moved by and at the pleasure of the board of commissioners),  
4 and until their successors are appointed and qualified.

Sec. 33. The salary of the mayor shall be \$3,600 per annum,

2 and his salary may be increased by the citizens board, if said  
 3 board should deem it advisable, to a sum not exceeding \$4,200,  
 4 and the salary of the members of the board of commissioners shall  
 5 be \$3,000 per annum, which may be increased by the citizens  
 6 board to any sum not exceeding \$3,600 each. All salaries to-  
 7 officers and city employees shall be paid by city vouchers payable  
 8 to the order of such officer or employee. *Provided*, however, that  
 9 the board of commissioners shall make all appointments of ap-  
 10 pointive officers required of them to be made under this act on or  
 11 before the first day of July next following their election and  
 12 qualification, and if the said board shall fail to make such appoint-  
 13 ment in the time aforesaid their salaries shall cease until such  
 14 appointments are made; and the mayor, city clerk and treasurer  
 15 shall take official notice of such failure to fill said appointive  
 16 offices and shall not issue any order for nor otherwise pay to the  
 17 commissioners their salary for the period of their failure to  
 18 make said appointment.

Sec. 34. The board of commissioners shall fix the salary of  
 2 all assistants to the heads of departments, and all appointive  
 3 officers, except that of the city auditor; the city auditor shall be  
 4 appointed by the citizens board and he shall hold office at the  
 5 pleasure of said board, and said board shall also fix his salary  
 6 which shall be paid by the city.

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Sec. 35. Laborers by the day and those doing special work  
 2 may be paid by the board of commissioners without fixing the  
 3 price therefor by ordinance.

### *Duties of Appointive Officers.*

Sec. 36. The duties in addition to those prescribed herein,  
 2 of all appointive officers named or authorized in this act shall be  
 3 prescribed by the board of commissioners.

## ARTICLE VII.

### *Meetings of Board of Commissioners.*

Sec. 37. The board of commissioners shall meet at some  
 2 place provided for that purpose at least once each week, on a stated  
 3 day and at an hour fixed by ordinance or rules governing the board.

Sec. 38. Special meetings of the board may be called by

2 the mayor or any two members of the board by personal notice  
3 given to the other members thereof, and like notice to the public  
4 through and by at least one publication in two daily newspapers  
5 of the city of opposite politics, stating the time and object of the  
6 meeting; and no business, except that stated in said notice, shall  
7 be considered or acted upon at said meeting. All meetings of the  
8 board shall be open to the public.

#### *How Vote Taken.*

Sec. 39. The vote upon any question or motion before the  
2 board of commissioners may be *viva voce* when unanimous; but  
3 if the question or motion does not receive the unanimous vote  
4 of the members present, then the vote shall be taken by roll call  
5 of the members and made a part of the minutes of the meeting;  
6 and when the vote is unanimous the minutes shall so state.

#### *Minutes of the Meetings.*

Sec. 40. The city clerk shall be ex-officio clerk of the board  
2 of commissioners. Said board shall cause detailed minutes of  
3 its meetings and proceedings to be kept by the city in a well bound  
4 book for that purpose, which shall remain in the custody of the  
5 city clerk at his office and open to public inspection. The min-  
6 utes of every regular or special meeting shall be read publicly at  
7 the next regular meeting of the board, and, after being corrected,  
8 shall be signed by the mayor and city clerk, and, if thus recorded  
9 and signed, they shall be admitted as evidence in any court of  
10 record in this state.

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#### *Meetings of the Citizens Board.*

Sec. 41. The citizens board shall meet on the first Monday  
2 of each month at an hour and at the place to be fixed by it by the  
3 rules governing its body.

Sec. 42. Special meetings of the citizens board may be called  
2 by its president, or any ten members thereof, or by the board of  
3 commissioners, or by the mayor, by notice published in two daily  
4 newspapers of the city of opposite politics, for three successive  
5 days, stating the time and object of the meeting. The holding  
6 of a special meeting of the citizens board shall be *prima facie*

7 evidence that the said notice required therefor was given as pre-  
8 scribed in this section.

*Attendance of Witnesses, Punishing Contempts, Etc.*

Sec. 43. The board of commissioners and the citizens board  
2 in the exercise of their respective powers and the performance of  
3 their respective duties, as prescribed by this act and by the laws  
4 of the state, shall have the power to enforce the attendance of  
5 witnesses, the production of books and papers, and the power to  
6 administer oaths in the same manner and with like effect, and  
7 under the same penalties as notaries public, justices of the peace  
8 and other officers of the state authorized to administer oaths under  
9 state laws, and said board of commissioners and said citizens  
10 board shall have such power to punish for contempts as it con-  
11 ferred on county courts by section thirteen of chapter thirty-one  
12 of the code. All process necessary to enforce the powers con-  
13 ferred by this act on the board of commissisoners and citizens  
14 board shall be signed by the mayor (or acting mayor) and the  
15 president of the citizens board, respectively, and shall be exe-  
16 cuted by any member of the police force.

*Quorum.*

Sec. 44. A majority of the members of the board of com-  
2 missioners and a majority of the members of the citizens board  
3 shall be necessary for the transaction of business before said re-  
4 spective boards.

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*Filling Vacancies In Office of Commissioner.*

Sec. 45. If there shall occur at any time a vacancy in the  
2 office of mayor, or in the office of commissioner, the citizens board  
3 shall have the right and power to fill such vacancy by appoint-  
4 ment in the manner hereinafter provided, and for that purpose  
5 said citizens board shall immediately convene and fill such vacan-  
6 cies for the unexpired term, but the person or persons so ap-  
7 pointed to fill such vacancies shall be of the same political party  
8 as the mayor or commissioner whose office was vacated and is  
9 being filled. *Provided, however,* that the members of the same  
10 political party on the citizens board that the mayor or commis-  
11 sioner was a member of at the time the vacancy occurred shall  
12 have the right to select the person to be appointed to such vacancy,  
13 and the citizens board shall appoint the persons so recommended

14 and selected. The person so appointed shall take and subscribe  
15 to the oath of office required by this charter, and execute any  
16 bond that may be required by law.

*Absence of Officers.*

Sec. 46. When any member of the board of commissioners or  
2 any appointive officer of the city shall from sickness or other causes  
3 be unable, for a short space of time, to attend to the duties of  
4 his office, the board of commissioners, in case of the absence of a  
5 commissioner, may designate another commissioner to attend to  
6 the duties of such absent commissioner in addition to the duties  
7 already devolving upon him in the capacity of commissioner;  
8 and, in case of the absence of any appointive officer, the board  
9 may appoint some other officer of the city or other person to per-  
10 form the duties of such officer, during his absence, either with  
11 or without the salary, in whole or in part, of such absent officer.

*Cannot Hold Any Other Office.*

Sec. 47. The members of the board of commissioners can-  
2 not hold any other city office, except as prescribed in this act, nor  
3 be an employee of the city in any other capacity with a compen-  
4 sation, nor hold any other office or position, with or without com-  
5 pensation, which may interfere with the faithful discharge of  
6 their duties as commissioner.

Sec. 48. No appointive officer of the city shall hold two  
2 official offices with the city at the same time, nor shall become the  
3 employee of the city in any other capacity, without first having  
4 the consent of the board of commissioners.

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*Purchasing Supplies.*

Sec. 49. The board of commissioners shall purchase all the  
2 supplies for the departments of the city government at the lowest  
3 price possible considering the quality and grade of the supplies  
4 desired. And, when practicable, the board shall advertise by  
5 reasonable notice in at least two daily newspapers of opposite  
6 politics, for bids on supplies to be furnished, and shall award  
7 contract therein (unless all bids are rejected) to the lowest bid-  
8 der taking from such bidder a written contract and bond therein,  
9 to be approved by the board, for the faithful performance of said  
10 contract. *Provided, however,* that no supplies shall be purchased  
11 until the auditor has made requisition for same which shall also  
12 be approved by the mayor.

## ARTICLE VIII.

Sec. 50. All persons elected or appointed to the offices named in this act shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the board of commissioners.

The police judge shall be ex-officio a justice of the peace, with authority to issue warrants or other process for all offenses committed within the police jurisdiction of the city of Huntington of which a justice of the peace has jurisdiction under the state laws, and for all violations of any city ordinances; in order to preserve the peace and good order of the city, and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrant therefor. The police judge may without fees or other compensation commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit court or criminal court of Cabell county; and he shall have power to issue executions for all fines, penalties and costs imposed by him. And he may require the immediate payment thereof, and, in default of such payment, may commit the person so in default to jail until the fine and penalty and costs shall be paid or satisfied, and to be employed during imprisonment as provided by this act. If any person is sentenced to imprisonment, or any person or corporation is assessed with a fine of ten dollars or more, such person or corporation shall be allowed an appeal Enr. H. B. No. 44]

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from said decision of the police judge to the criminal court of Cabell county upon the execution of an appeal bond, with surety deemed sufficient by the police judge, in a penalty double such fines and costs, conditioned that the person proposing to appeal will perform and satisfy any judgment which may be recorded against him by the appellate court on such appeal, and in no case shall a fine of less than ten dollars be given by the police judge if the defendant, his agent or attorney demand that such fine be made as much as ten dollars. If such appeal be taken the warrant of arrest, the transcript of the judgment, the appeal bonds and other papers of the case shall be forthwith delivered by the police judge to the clerks of the criminal court, and said criminal court shall proceed to try the case as upon indictment or pre-

39 sentiment and render such judgment including that of cost, as the  
40 law and evidence may demand.

## ARTICLE IX.

### *Vote on Franchise, Ordinances, Officers, Etc.*

Sec. 51. No franchise or ordinance shall be passed, and no  
2 contract shall be awarded nor any money appropriated for any  
3 one purpose in a greater sum than twenty-five dollars, and no  
4 appointment of any officer shall be made, nor any vacancy in  
5 office declared without the affirmative vote of at least four mem-  
6 bers of the board of commissioners.

Sec. 52. If any ordinance passes the board of commissioners  
2 it shall become and remain effective as therein prescribed unless  
3 vetoed by the citizens board at its next regular meeting time, or  
4 special meeting time called to act on said ordinance.

Sec. 53. When the citizens board shall express its vote on  
2 any ordinance passed by the board of commissioners, (except a  
3 franchise), it shall, not later than the second day thereafter,  
4 cause such ordinance, with its vote thereof, and its written rea-  
5 sons therefor, addressed to the board of commissioners, to be  
6 transmitted to the city clerk, and the city clerk shall submit the  
7 same to the board of commissioners at its regular meeting or  
8 special meeting called for that purpose, which shall be noted in  
9 the minutes of said meeting, but a failure to transmit such ordi-  
10 nance within said time shall not render such veto void. If the  
11 said ordinance shall be changed and again passed by the board of

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12 commissioners, it shall be treated as a new or original ordinance  
13 and subject to the veto power of the citizens board.

Sec. 54. If there shall be a tie vote on the passage of any  
2 franchise before the board of commissioners, the mayor shall at  
3 once transmit such franchise, with a written statement of that  
4 vote on the passage of the same before the board of commission-  
5 ers was a tie, to the president of the citizens board, who shall lay  
6 the same before said citizens board at its next regular meeting  
7 time thereafter, or prior special meeting time called for that pur-  
8 pose. If upon consideration of said franchise by the citizens board  
9 a majority of all the members elected to said citizens board shall  
10 vote for the passage of said franchise as transmitted from the

11 board of commissioners, it shall be considered passed and adopted,  
12 and shall become effective, as prescribed by the terms thereof.

13 The citizens board, through its president or otherwise, shall  
14 at once transmit the same, with the action of the citizens board,  
15 addressed to the board of commissioners, to the city clerk, who  
16 shall call the same to the attention of the board of commissioners,  
17 at their next regular meeting, or special meeting called for the  
18 purpose, at which shall be noted in the minutes the action of the  
19 citizens board on said franchise.

Sec. 55. Publication of notice to present franchise, and  
2 other preliminaries prescribed by the laws of the state relating  
3 thereto, shall be had in the manner prescribed by state laws, before  
4 the board of commissioners shall act on any such franchise; but  
5 the passage of any franchise shall be *prima facie* proof that such  
6 notice was given as prescribed by law.

7 The word "franchise", whenever used in this act, shall in-  
8 clude every special privilege in, under and over the streets, high-  
9 ways and public grounds of the city which does not belong to  
10 the citizens generally by common right.

Sec. 56. The style of any ordinance enacted by the board of  
2 commissioners shall be, "Be it ordained by the board of Commis-  
3 sioners of the City of Huntington."

## ARTICLE X.

### *Licenses.*

Sec. 57. Concerning anything for which a state license is  
2 required to be done within the said county, the board of commis-  
3 sioners may require a city license therefor, and may impose a  
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4 tax thereon for the use of the city; and the board of commissioners  
5 shall have the power to grant, refuse or revoke any such license  
6 of owners or keepers of hotels, carts, wagons, drays, and every  
7 other description of wheeled carriages kept or used for hire in said  
8 city, and to levy and collect tax thereon and to subject the same to  
9 such regulations as the interest and convenience of the inhabitants  
10 of said city in the opinion of the board of commissioners, may  
11-21 require. The board of commissioners shall require from the  
22 person so licensed a bond, with approved security, payable to said  
23 city in such penalty, and with such conditions as it may think  
24 proper, and may revoke such license at any time if the condition



25 of the bond is broken; and the board of commissioners shall have  
26 authority to subject any person or persons, who without having  
27 paid the tax imposed by the board of commissioners for the  
28 privilege shall do any act or follow any employment of business  
29 in the said city upon which the said board is or shall be authorized  
30 to impose a tax to any fine or imprisonment which it is or may be  
31 authorized to impose or inflict for the enforcement of its ordi-  
32 nances;

### *Nuisances*

Sec. 58. The board of commissioners of said city shall have  
2 authority to abate and remove all nuisances in said city. It may  
3 compel the owners, agents, assignees, occupants or tenants of any  
4 lot, premises, property, building or structure, upon or in which  
5 any nuisance may be, to abate and remove the same by orders  
6 therefor, and by ordinance provide a penalty for the violation of  
7 such orders.

8 Said board of commissioners may also by its own officers,  
9 appointees and employees abate and remove nuisances. It may by  
10 ordinance regulate the location, construction, repair, use, empty-  
11 ing and cleaning of all water closets, privies, cess-pools, sinks,  
12 plumbing, drains, yards, pens, stables, and other places, where  
13 offensive or dangerous substances or liquids are, or may accumu-  
14 late, and provide suitable penalties for the violation of such regu-  
15 lations, which may be enforced against the owner, agent, assignee,  
16 occupant or tenant, of any premises or structure where such  
17 violation may occur.

18 If the owner, agent, tenant, assignee or occupant of any  
19 such premises, lot, property, building or structure as is mentioned

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20 herein, shall fail or refuse to abate or remove any such nuisance  
21 as mentioned herein, or to comply with the provisions of any such  
22 ordinance, and the regulations herein contained, the said board of  
23 commissioners may have said nuisance abated or the provisions of  
24 said ordinance or ordinances carried out, after reasonable notice  
25 to said owner, occupant, tenant, agent or assignee of its intentions  
26 so to do, and collect the expense thereof, with one per centum per  
27 month interest added from the date of said notice, from the said  
28 owner, occupant, tenant, agent or assignee, by distress or sale, in  
29 the same manner in which taxes levied upon real estate for the

30 benefit of said city are herein authorized to be collected, and the  
31 expense shall remain a lien upon said lot, or part of lot, the same  
32 as taxes levied upon real estate in said city; which lien may be  
33 enforced by a suit in equity before any court having jurisdiction  
34 as other liens against real estate are enforced. In case of non-  
35 resident owners of real estate such notice may be served upon  
36 any tenant, occupant, assignee, or rental agent, or by publication  
37 thereof for not less than two consecutive weeks in two newspapers  
38 of opposite politics, published in said city.

39 And in all cases where any tenant, occupant or agent is re-  
40 quired to abate and remove any nuisance under the provisions of  
41 this section, or comply with the provisions of any such ordinance  
42 as is mentioned herein, the expense thereof may be deducted out  
43 of the accruing or accrued rent of said property, or amount due  
44 said owner from said agent, and such tenant, occupant or agent  
45 may recover the amount so paid from the owner, unless otherwise  
46 especially agreed upon.

47 Any expense incurred by the board of commissioners as here-  
48 in provided, in the manner aforesaid, may be collected in the  
49 manner herein provided, notwithstanding the imposition of any  
50 other penalty or penalties upon any of the persons named herein,  
51 under any of the provisions of this act. The abatement or re-  
52 moval of any such nuisance by the board of commissioners at  
53 the expense of said city, as herein provided, shall be prima facie  
54 proof that the said notice to the owner, occupant, tenant, agent  
55 or assignee, was given as herein prescribed.

Sec. 59. The board of commissioners may require all own-  
2 ers, tenants and occupants of improved property which may be  
3 located upon or near any street or alley along which may extend  
4 any sewer or system of sewerage, which the said city may con-  
5 struct, own or control, to connect with such sewer or system of  
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6 sewerage, all privies, water closets, cess-pools, drains, or sinks  
7 located upon their respective properties or premises so that their  
8 contents may be made to empty into such sewer or system of  
9 sewerage.

#### *Sidewalks and Shade Trees.*

Sec. 60. The board of commissioners are authorized and  
2 empowered to cause to be put down a suitable curb of brick,

3 stone or other materials along and for the footways and side-  
4 walks of the avenues, streets, roads or alleys of said city, and to  
5 order and cause the laying or relaying or repair of sidewalks and  
6 gutters of such material and widths as the board may determine;  
7 and the planting or replanting of and caring for shade trees  
8 along said avenues, streets and roads at such points and in such  
9 manner as the board may determine; and to require the own-  
10 ers or occupiers of the land or lots or parts of lots facing upon  
11 said avenues, streets, roads, or alleys to keep such sidewalks  
12 clean and in good repair, and to grade the plot of ground on  
13 either side of the sidewalk between the street curb and the  
14 property line and keep the same sodded with grass and free of  
15 weeds and obstructions, and otherwise in good condition and  
16 repair. The owners or occupiers of the land or lots abutting  
17 upon such avenues, streets, roads or alleys shall not lay any  
18 sidewalks, curb or gutter, or plant any such shade trees, unless  
19 specially required to do so by resolution adopted by said board,  
20 and then only in the manner prescribed by said board; but said  
21 city may lay such sidewalks, curb or gutter, and plant or re-  
22 plant and care for said shade trees, or may let said work to  
23 contract, and in either case the total cost of said work, or such  
24 part thereof as the board may direct shall be charged upon and  
25 against the land or lots abutting upon such avenue, street, road,  
26 or alley, which assessments shall be and remain a lien upon said  
27 land or lots the same as taxes levied upon real estate in said  
28 city, which lien may be enforced by a suit in equity before any  
29 court having jurisdiction as other liens against real estate are  
30 enforced. The amounts so assessed against any land or lot shall  
31 also be a debt against the owner of such land or lot, which may  
32 be collected as other debts are collected, in any court having  
33 jurisdiction, and shall be due and payable in ninety days from the  
34 completion and acceptance of such work as certified to by the  
35 board of commissioners, with six per cent interest thereon from

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36 the date of such record acceptance. And in ascertaining the  
37 amount to be assessed against any corner lot for the cost of lay-  
38 ing any such sidewalk and planting trees in front or alongside  
39 thereof, the board may assess the total cost of laying such side-  
40 walks, and planting trees, in front or alongside said lot and ex-  
41 tended to the curb or gutter of the intersections of the avenues,  
42 streets, roads or alleys at that point.

43 When such work is done by the city, and not let to contract  
44 the board shall certify such assessments to the treasurer of the  
45 city for collection, who shall account for the same as directed  
46 by the board or by ordinance; and the treasurer shall accept  
47 payment, when tendered, of the amount of said assessment with  
48 interest to the date of payment, and unless said assessment shall  
49 have been paid within ninety days from the date of such assess-  
50 ment, that a copy of such report shall be certified by the city  
51 clerk to the clerk of the county court of Cabell county, who is  
52 hereby required to record and index the same in the proper trust  
53 book in the name of each person against whose property assess-  
54 ments appear therein. If any such assessment shall not be paid  
55 when due, the board of commissioners shall cause to be enforced  
56 the payment of said assessment and interest in all respects as  
57 herein provided for the collection of taxes due the city; and said  
58 assessments shall be a lien upon the property liable therefor, the  
59 same as for taxes, which lien may be enforced in the same manner  
60 as provided for the sale of property for the non-payment of  
61 taxes and tax liens; and the liens herein provided for shall have  
62 priority over all other liens except those for taxes due the state  
63 and the county, and shall be on a parity with taxes and assess-  
64 ments due the city. When such assessments shall have been  
65 paid in full, and a lien therefor shall be of record in the county  
66 clerk's office, the treasurer shall execute and deliver to the owner  
67 of said property a release of said lien, which may be recorded in  
68 the office of the county clerk as other releases of liens are  
69 recorded.

70 The board may, if it so elect, let said work to contract, and  
71 certificates may be issued for the amount of said assessments  
72 which may be sold to the contractor doing the work, or other  
73 person, in full of the total cost, in the same manner as provided  
74 for paving certificates, in this act; *provided*, the city in negotiat-  
75 ing and selling such certificates shall not be held as guarantor or  
76 in any way liable for payment thereof, except upon the direct  
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77 action of the board of commissioners as expressed by resolution  
78 of record before such sale. Said certificates, to be signed by the  
79 mayor and clerk or other person or persons designated of record  
80 by the board, shall bear date as of the time when such work is  
81 accepted and certified by the board of commissioners, and shall  
82 be due and payable in ninety days from date thereof, with six

83 percent interest. When the board shall have received said work,  
84 it shall at the same time make said assessments upon written  
85 report; and at the end of ninety days from date thereof, upon the  
86 demand in writing filed with the city clerk, of the holder or  
87 holders of the unpaid certificates issued to cover said assess-  
88 ments, said clerk shall certify a copy of said report, only insofar  
89 as it relates to the owners against whom said exhibited certificates  
90 remain unpaid, to the clerk of the county court of Cabell county,  
91 who shall record and index the same as other liens of the like  
92 kind are recorded and indexed, and the same shall be and remain  
93 a lien upon the real estate against which said assessments are  
94 made, as set out in said certified report, and said lien may be  
95 enforced, in the name of the holder of such certificate in the  
96 same manner as set out in this act.

97 Before letting such work to contract, the board shall adver-  
98 tise the same once a week for two successive weeks in two news-  
99 papers of opposite politics published in the city of Huntington,  
100 or in one paper in case publication cannot be had in two such  
101 papers, setting out the time and place for receiving proposals  
102 for such work and referring to the plans and specifications made  
103 therefor; and the city reserves the right whether stated in such  
104 notice or not, to refuse any and all bids for the work. On re-  
105 fusel of said papers to publish said notice at reasonable rates,  
106 the board may, by resolution, direct how such notice may be given.  
107 The fact that such contract shall be awarded for said work shall  
108 be *prima facie* proof that said notice was given as required herein.  
109 Such lien, as represented by certificates, may be released of rec-  
110 ord in the office of the county clerk in the same manner as paving  
111 liens, represented by certificate, are released of record as pro-  
112 vided for in this act; and in no event shall such assessment be  
113 and remain a lien of record for a longer period than one year  
114 from the date set out in said certified report so recorded in the  
115 office of the county clerk unless at the end of said one year period  
116 a suit shall be pending for the enforcement of said lien, or the

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117 amount thereof shall, in some way, be involved in a suit pending  
118 at the end of said one year period.

119 All such work, whether done by the city direct, or through  
120 contractors, shall be under the supervision of the street depart-  
121 ment of the city or some person designated for that purpose by  
122 the board of commissioners.

123 If the owner or occupier of any such lot or land shall be  
124 required by the board to lay, or relay, clean or repair any such  
125 sidewalk between the street curb and the property line, and keep  
126 the same sodded and free from weeds or obstruction, and other-  
127 wise in good condition and repair, written or published notice  
128 shall be given to such owner or occupier in the manner pro-  
129 vided by ordinance or resolution adopted by the board, and the  
130 neglect or refusal of such owner or occupier to do the work, in  
131 the manner and within the time required by the board, as set  
132 out or referred to in said notice, shall be an offense and may be  
133 punished as provided by ordinance; and after the expiration of  
134 the time set out in said notice for the doing of said work, and  
135 the same remains undone, the board may do, or cause to be done,  
136 said work and assess and collect the cost thereof in the manner,  
137 upon either plan, and to full extent set out in this section.

## ARTICLE XI.

### *Taxes, Levies, Assessments, Etc.*

Sec. 61. The board of commissioners shall annually, before  
2 the levying of taxes provided for and authorized by this act, as-  
3 certain the total expense of said city to be provided for by levy  
4 for the fiscal year in which said levy is made, and it shall ascer-  
5 tain the sum of money necessary to pay interest accruing on the  
6 bonded indebtedness of said city, and what amounts it shall ex-  
7 pend for the support of its various departments, and for the  
8 improvements of its streets, alleys, avenues, and public grounds,  
9 or for its contingent expense; and before making such levy it shall  
10 apportion the rate thereof among the several funds so ascertained  
11 and provided for, which apportionment shall be spread upon the  
12 records of said board and a copy of a statement thereof shall be  
13 annually published by direction of said board as soon as the same  
14 is recorded, in at least two newspapers of said city of opposite  
15 politics, and for the purpose of paying the interest on the present  
16 bonded indebtedness, and creating a sinking fund to pay off such  
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17 indebtedness when due, that is now owed by the city of Hunting-  
18 ton and the city of Central City before the enacting of this act,  
19 the territory now comprising the city of Huntington and the city  
20 of Central City shall each constitute a separate special levy dis-  
21 trict in which district a separate levy shall be annually laid by

22 said board of commissioners to pay the interest and create a sink-  
23 ing fund in said respective districts to pay off and discharge the  
24 said bonded indebtedness of each of said cities respectively, and as  
25 soon as such indebtedness has been paid by such special levy in  
26 either of said districts, then that district shall thereby be abolished,  
27 and the remaining levy district retained and such special levy  
28 aforesaid annually laid until said indebtedness of that district be  
29 fully discharged, in consequence of which that district shall also  
30 be abolished, so that the bonded indebtedness of each of the muni-  
31 cipal corporations, namely: Huntington and Central City, the  
32 territory of each being embraced and included in this act, with  
33 the accrued and accruing interest against each, shall be provided  
34 for and paid out of levies on property and taxable subjects of  
35 each, within the boundaries of said corporations respectively, as  
36 they were respectively just prior to the passage of this act; and  
37 said boundaries shall be observed and recognized in making levies  
38 and assessments for the payment of said bonds and interest as  
39 separate taxable districts for said purposes only; and that the  
40 territory embraced in this act, not within the boundaries of either  
41 of said former municipalities, shall not become liable or taxed to  
42 pay any part of the said indebtedness or interest thereon of said  
43 corporations.

Sec. 62. The board of commissioners shall have authority  
2 to levy and collect an annual tax on real estate and personal  
3 property in said city, and to impose a license and assess a tax  
4 thereon on wheeled vehicles for public hire, and upon all dogs  
5 kept within said city, and to impose a tax upon all other subjects  
6 of taxation, under the several laws of the state, which taxes shall  
7 be uniform with respect to persons and property within the juris-  
8 diction of said city, and shall only be levied on such property,  
9 real, personal and mixed, and on capital, on which the state im-  
10 poses a tax; *provided*, that no greater levy shall be laid by said  
11 board of commissioners except the ten cents levy authorized by  
12 this act, on the taxable property of said city than is now per-  
13 mitted to be laid under the state law relating to municipalities,  
14 except, however, that the said board of commissioners may, by

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15 the unanimous vote of its members, by ordinance, lay an addi-  
16 tional levy not to exceed twenty cents on the one hundred dollars  
17 of all the taxable property within said city; but said ordinance  
18 laying said additional levy shall not become effective or operative if

19 two-fifths of all the members elected to the citizens board shall  
20 express a veto to said ordinance, in the manner prescribed by this  
21 act.

Sec. 63. All taxes assessed upon the real estate within the  
2 said city, shall remain a lien thereon from the time the same are  
3 so assessed, which shall have priority over all other liens, except  
4 for taxes due the state, county or district, and all taxes whether  
5 assessed upon realty or personalty or otherwise may be enforced  
6 and collected in the same manner and by the same remedies as  
7 is now or may hereafter be provided by law for the enforcement  
8 of liens and levies for state and county taxes, or in such manner  
9 as the board of commissioners may by ordinance prescribe. And  
10 in levying taxes and collection thereof, and the return of prop-  
11 erty delinquent for non-payment of taxes, the duties of the city  
12 clerk shall be similar to the duties of the county clerk of Cabell  
13 county in that behalf; the duties of the treasurer in the collection  
14 of taxes, licenses and money due the city and accounting for the  
15 same and the return of property delinquent for the non-payment  
16 of taxes, shall be similar to the duties of the sheriff of Cabell  
17 county; except the board of commissioners may make such regu-  
18 lations and ordinances prescribing the duties of the city clerk and  
19 city treasurer and their manner of performance as the board may  
20 deem necessary. And the board shall, through itself and such  
21 officers and employees as it may appoint or employ under such  
22 regulations and ordinances as it may enact (not contrary to the  
23 laws of this state), have such authority and power as may be  
24 necessary for the levying and collection of taxes, tithables, fines,  
25 licenses, sewer and paving assessments owing the city with power  
26 and authority to enforce the collection of such fines by impris-  
27 onment in the city or county jail.

Sec. 64. No taxes or levies shall be assessed upon or col-  
2 lected from the taxable persons or property within the corporate  
3 limits of said city, for the construction, improvement or keep-  
4 ing in repair of roads or the building, leasing, repairing of school  
5 houses, or the purchase of lands for the same, or for the support  
6 of the schools, or for the support of the poor of Cabell county,  
7 outside of said corporate limits, for any year in which it shall  
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8 appear that said city shall at its own expense provide for its own  
9 poor and keep its own roads, streets, and bridges in good order.  
10 And neither the county court of Cabell county, nor the authori-



11 ties of the district in which said city is situated, shall have or  
12 exercise jurisdiction within the corporate limits with relation to  
13 the roads, streets, alleys, bridges, wharves, docks, ferries, schools  
14 or school houses, but the same shall be and remain under the  
15 exclusive jurisdiction and control of the municipal authorities of  
16 said city, except that the board of education in the independent  
17 school district of the city of Huntington shall have jurisdiction,  
18 supervision and control of the schools and school houses in said  
19 district; and said city shall be liable only for the construction,  
20 improvement, repair and good order of the roads, streets, alleys,  
• 21 wharves and bridges in its corporate limits.

Sec. 65. There shall be a tax of two dollars annually as-  
2 sessed on each and every male inhabitant of said city, over twenty-  
3 one and under fifty years of age, by the board of commissioners,  
4 and the same shall be set out and included in the personal prop-  
5 erty book against every such inhabitant, and shall be collected  
6 by the city treasurer or other officer of the city acting in lieu  
7 thereof and under the authority of the board of commissioners, at  
8 the time of collecting other levies and taxes. All money collected  
9 under this section shall go into the street and wharf fund, or like  
10 fund, to be expended upon the roads, streets, and alleys, side-  
11 walks, crosswalks, drains, gutters, wharf and bridges of said city.

Sec. 66. It shall be the duty of the city treasurer to keep  
2 all funds of the city in some bank or banks within said city which  
3 shall pay two per cent or more per annum interest on such de-  
4 posits, payable quarterly, based on the average daily balance of  
5 such funds in all accounts. If no bank within said city is will-  
6 ing at any time to receive deposits of the treasurer and to pay  
7 such interest thereon the treasurer shall report this fact to the  
8 board of commissioners who shall thereupon designate a bank or  
9 banks in which he shall deposit said funds for the time being and  
10 until some bank in said city will receive such deposits on such  
11 terms. Before receiving any such deposits said bank or banks  
12 shall give bond in the penalty prescribed by the board of com-  
13 missioners, and with sureties to be approved by said board, con-  
14 ditioned for the prompt payment, whenever lawfully required, of  
15 all the city moneys, or parts thereof which may be deposited with  
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16 them, which bonds shall be renewed at such times as the board of  
17 commissioners may require.

*Street Paving.*

Sec. 67-(a). The board of commissioners of the city of  
2 Huntington may order and cause any avenue, street, road or  
3 alley therein to be graded, or curbed or recurbed with stone,  
4 concrete or other suitable material, or paved or repaved, between  
5 curbs, with brick, wooden blocks, asphalt or other suitable  
6 materials, or to be graded and curbed or recurbed and paved or  
7 repaved as aforesaid, or to be macadamized or to be otherwise  
8 permanently improved or repaired, under such supervision as  
9 may be directed by ordinance or resolution, upon the best bid  
10 to be obtained by advertising for proposals therefor, except the  
11 city may do the work without letting it to contract as herein-  
12 after provided in (d) of this section; and may purchase or con-  
13 demn land for opening or widening avenues, streets, roads and  
14 alleys. The entire cost, or any part thereof designated by the  
15 board of commissioners, of such grading, curbing and paving or  
16 macadamizing, or other permanent improvements, of any of the  
17 avenues, streets, roads and alleys as aforesaid, from and in-  
18 cluding the curb of either side thereof to the middle thereof and  
19 the cost, or any part thereof, of purchasing or condemning land  
20 as aforesaid for street purposes, may be assessed to and required  
21 to be paid by the owners of the land, lots or fractional parts of  
22 the lots fronting or bounding on such avenue, street, road or  
23 alley so improved, except as otherwise provided in (g) of this  
24 section.

25 (b) Payment is to be made by all land owners on either  
26 side of such portion of any avenue, street, road or alley so paved,  
26 opened, widened, or improved in such proportion to the total  
27 cost (less the portion, if any, chargeable to the street or other  
28 railway company) as the frontage in feet of his abutting land  
29 bears to the total frontage of all the land so abutting on said  
30 avenue, street, road or alley or portions thereof opened, widened,  
31 paved or improved as aforesaid; but the cost of such paving or  
32 improvement on said avenue, street, road or alley (not including  
33 opening or widening) shall not include any portion or amount  
34 paid for the paving or improvement of intersections of avenues,  
35 streets, roads or alleys, unless the work to be done, and the pay-  
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36 ment made therefor, as especially provided herein, as follows,  
37 to-wit:

38 (c) Upon petition in writing of the owners of not less

39 than one-half in lineal feet of property abutting upon any ave-  
40 nue, street, road or alley in said city, asking the city to grade,  
41 curb, pave or macadamize, or otherwise to permanently improve,  
42 such avenue, street, road or alley, and offering in said petition  
43 to have their property so abutting as aforesaid assessed not only  
44 with their part of the cost of such improvement abutting upon  
45 their property, as herein otherwise provided, but also offering to  
46 have their said property proportionately assessed with the total  
47 costs of the paving, grading and curbing, or macadamizing, or  
48 other permanent improvement, of the intersections of the avenue,  
49 street, road or alley so paved or otherwise permanently improved.  
50 as petitioned for, the board of commissioners may order such  
51 work to be done, as heretofore provided in this section, and the  
52 total cost thereof, including cost of intersection, to be charged  
53 to and paid by the owners of the property abutting on such ave-  
54 nue, street, road or alley, and that the paving assessment or  
55 certificate made or issued to cover the cost of paving, grading  
56 and curbing or otherwise permanently improving such inter-  
57 section shall be made a separate and one of the last assessments  
58 or certificates due against them and their property so assessed;  
59 and the city may assume the payment of such assessments or  
60 certificates covering the cost of such intersection, or may reim-  
61 burse the property owners paying the same, out of its general  
62 levy for streets, but there shall be no legal obligation on the city  
63 to do so.

64 (d) The city itself may do such work and charge and  
65 collect the cost thereof in the manner set out in this act. The  
66 decision of the city to do such work may be without notice or  
67 after the publication of the notice mentioned in this section, or  
68 after the rejection of all bids for the doing of the work.

69 (e) The cost of grading, curbing and paving, or other-  
70 wise improving, the intersections, or parts of intersections, of  
71 avenues, streets, roads or alleys, on the plans adopted by the  
72 board of commissioners for such work, shall be paid by the city,  
73 except as otherwise provided in (c) of this section.

74 (f) And if any such avenue, street, road or alley be occu-  
75 pied by street car track or tracks of other railroads, the cost  
76 of said improvements of the space between the rails and two

77 additional feet outside of each rail shall be assessed to and borne  
78 and paid entirely by the person or company owning or operating

79 such street car or other railway line, unless otherwise provided  
80 by the franchise of such street car or other railway company  
81 granted previous to the passage of this act.

82 (g) *Provided*, the board of commissioners, if they so elect,  
83 may order and cause any avenue, street, road or alley, public  
84 park or public place to be widened, graded or changed in grade  
85 and curbed or recurbed, and paved or repaved, with brick, con-  
86 crete, asphalt or any other suitable materials, or macadamized, or  
87 otherwise permanently improved including the construction of  
88 retaining walls, sewers, drains, water pipes, water dams and  
89 water courses, in connection therewith, and may purchase land,  
90 or condemn land as provided in this act, for any public avenue,  
91 street, road or alley, or part thereof or park or other public pur-  
92 pose; and the board may assess all or any part of the entire cost  
93 of such improvements (or taking of land, or both) upon the  
94 abutting, adjacent, contiguous and other lots or land especially  
95 benefitted by such improvement; *provided, however*, that the  
96 owner of any real estate whose property is to be charged for the  
97 paving of any street or alley of said city, or for the laying of any  
98 sewer therein, may object to the paving thereof, or the laying of  
99 such sewer, which objection shall be filed with the said board of  
100 commissioners, and when such objections are so filed, and the  
101 said board of commissioners shall order the said paving to be  
102 done, or said sewer to be laid, the said party so objecting shall  
103 have the right of appeal from such order to the citizens board of  
104 said city, and no further proceedings under such order shall be  
105 had until such citizens board shall have passed on such appeal,  
106 and the citizens board in passing on such appeal shall have the  
107 power to ratify or reject and shall ratify or reject the said order  
108 of the board of commissioners as to such paving or sewer, and  
109 if such order of the board of commissioners is set aside by said  
110 citizens board, the same shall be invalid, and upon such appeal  
111 and a vote taken to ratify said order of the board of commis-  
112 sioners a majority of all members elected to said citizens board  
113 must vote to ratify said order of the board of commissioners, or  
114 the said appeal shall be held sustained and the said order re-  
115 jected and thereby rendered invalid and anuallity.

116 The board of commissioners, when they decide to order the  
117 improvements under this plan shall, by ordinance or resolution,  
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118 before doing the same, fix the total amount of the special bene-

119 fits to be derived from such improvements to the abutting ad-  
120 jacent, contiguous and other specially benefitted land or lots so  
121 assessed, setting out the names of the owners, the amount of the  
122 special benefits, and the approximate amount of the total cost of  
123 the proposed improvements; and the board may, in fixing such  
124 assessments, take into consideration the assessed value of the lots  
125 or land as fixed, for the last assessment year, for state and county  
126 purposes.

127 (h) When the board of commissioners shall deem it ex-  
128 pedient and proper to cause any avenue, street, road or alley, or  
129 any portion thereof, in such city, to be graded, or graded and  
130 paved, curbed or macadamized, or otherwise permanently im-  
131 proved, or land to be acquired or taken for street purposes, as  
132 provided in (a) of this section, or shall deem it expedient and  
133 proper to cause the construction of any public sewer in or under  
134 such avenue, street, road, or alley, or land or easement therein  
135 to be acquired or taken therefor, or elsewhere, as provided in  
136 this act, they shall by ordinance or resolution, order the work  
137 done, stating the method of payment thereof, and, if it be let  
138 to contract, notice shall be in the following manner, to-wit:

139 (i) The notice for the bids or proposals for doing such  
140 improvements, either for street improvements or the construc-  
141 tion of sewers, shall be published for at least fifteen days in two  
142 newspapers of opposite politics, or in one newspaper if two such  
143 newspapers be not published in the city. If the publication of  
144 the notice cannot be procured in any newspaper in said city at  
145 reasonable rates, then said notice may be given in the manner  
146 directed by the board. Said notice shall state when, where and  
147 how the bids or proposals shall be made; and, whether so stated  
148 in the notice or not, the city may reject any and all bids for such  
149 proposed work. Before advertising for bids on the work, the  
150 city shall approve and adopt plans and specifications therefor,  
151 and the advertisement for bids, and the contract awarded thereon,  
152 shall refer to such plans and specifications. The fact that such  
153 contract shall be let for said work shall be *prima facie* proof that  
154 the notice mentioned above was given as required herein.

155 (j) The cost of said paving, macadamizing or otherwise  
156 permanent improvement may be paid in either one of the two  
157 ways provided for in this act (to be specified by ordinance by  
158 the board of commissioners).

159 (k) If the abutting land on any such avenue, street, road  
160 or alley sought to be improved as aforesaid, or in which a sewer  
161 is ordered laid, is not laid off into lots by a map of record, the  
162 board of commissioners may, for the purpose of making the  
163 assessments provided for in this section and other sections herein,  
164 lay off said land into lots of such sizes as the board deems ad-  
165 visable for the purpose of laying the proper assessment against  
166 such land.

Sec. 69 (a). Said city of Huntington is hereby authorized  
2 to issue its bonds for the purpose of providing for the costs of  
3 grading, paving and curbing, or macadamizing, or otherwise  
4 permanently improving the avenues, streets, roads and alleys of  
5 said city, in anticipation of special assessments to be made upon  
6 the property abutting upon the avenues, streets, roads and alleys  
7 so improved. Said bonds may be in such an amount as shall be  
8 sufficient to pay the entire costs and expenses of said improve-  
9 ments for which such special assessments are to be levied; and  
10 said city is authorized to sell said bonds, but not below the par  
11 value thereof. The amount for which said bonds are issued shall  
12 be made up of five bonds, payable in two, four, six, eight and ten  
13 years, respectively, from the date of their issue, and shall bear  
14 interest not to exceed six per cent per annum, payable annually;  
15 and in the issuance and sale of said bonds the said city shall be  
16 governed by the restriction and limitations of the constitution  
17 of this state, and the restriction and limitations of the state laws  
18 of this state relating to the issuance and sales of bonds, so far  
19 as such state laws are not in conflict with the provision of this  
20 act; and the assessments as provided for and required to be paid  
21 herein shall be applied to the liquidation of said bonds and in-  
22 terest thereon, and if, by reason of the penalties collected with  
23 the delinquent assessments, there be any balance after the pay-  
24 ment of the bonds and all accrued interest and costs, it shall be  
25 turned into the city treasury to the credit of the interest and  
26 sinking fund of the city.

27 But said city shall not become indebted in any manner or  
28 for any purpose to an amount, including existing indebtedness,  
29 in the aggregate exceeding two and one-half per centum on the  
30 value of all the taxable property therein, as provided in chapter  
31 fifty-one of the acts of the legislature of one thousand nine hun-  
32 dred and five, except for the puprpose of grading, curbing, paving,  
33 macadamizing, or otherwise permanently improving the avenues,

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34 streets, roads and alleys therein, or constructing sewers therein  
35 or elsewhere, or acquiring or taking land or easement therein  
36 for street and sewer purposes, as provided for in this act, and for  
37 that purpose in estimating "existing indebtedness", special assess-  
38 ment bonds representing the cost of paving or other improve-  
39 ments of streets, roads, or alleys, or the construction of sewers,  
40 or acquiring or taking land for such purposes, and cost of which  
41 is assessed against the abutting property on such avenues, streets,  
42 roads or alleys, or specially benefitted property adjacent thereto,  
43 or on such owner, shall not be included; and likewise the amount  
44 in any sinking fund, or the amount invested therefor as pro-  
45 vided by law, for the payment of outstanding bonds, shall not  
46 be included in the estimate of existing indebtedness, provided,  
47 that the aggregate of its debt of every kind whatsoever, in-  
48 cluding such special street permanent improvement bonds, or  
49 sewer bonds, shall not exceed five per centum of the value of all  
50 taxable property therein.

51 (b). And it shall be the duty of the board of commissioners  
52 to immediately certify such assessments to the treasurer for col-  
53 lection, as herein provided; and for the purpose of facilitating  
54 the collection of such assessments against the properties herein,  
55 the board of commissioners may issue assessment certificates,  
56 with the interest coupons attached thereto, to be delivered to and  
57 charged against the city treasurer who shall collect the same,  
58 and as such certificates and coupons are paid he shall deliver the  
59 cancelled certificates to the party paying the same. A copy of  
60 the said order shall be certified by the city clerk to the clerk of  
61 the county court of Cabell county, who is hereby required to  
62 record and index the same in the proper trust deed book in the  
63 name of each person against whose property assessments appear  
64 therein.

65 (c). The amounts so assessed against said abutting lots and  
66 owners thereof, respectively, shall be paid in ten payments, as  
67 follows; That is to-say, one-tenth of said amount together with  
68 interest on the whole assessment for one year shall be paid into  
69 the treasury of the city before the first day of the following Jan-  
70 uary; and a like one-tenth part, together with interest for one year  
71 upon the whole amount remaining unpaid before the first day of  
72 January in each succeeding year thereafter, until all shall have  
73 been paid. Each of said installments of one-tenth shall bear in-

74 terest at six per centum per annum payable annually from the date

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75 of assessment. Provided, however, that the owner of any land, so  
76 assessed for the cost of the paving of said avenue, street, road or  
77 alley, shall have the right at any time to anticipate and pay the  
78 whole of such unpaid assessment and interest thereon until the first  
79 day of the following January, and have the lien against the prop-  
80 erty so assessed released as hereinafter provided.

81 (d) If any assessment shall not be paid when due, the board  
82 of commissioners shall cause to be enforced the payment of said as-  
83 sessment and interest in all respects as herein provided for the col-  
84 lection of taxes due the city; and said assessments shall be a lien  
85 upon the property liable therefor the same as for taxes, which lien  
86 may be enforced in the same manner as provided for the sale of  
87 property for the payment of taxes and tax liens; and the liens here-  
88 in provided for shall have priority over all other liens except those  
89 for taxes due the state and the county, and shall be on a parity with  
90 taxes and assessments due the city.

91 (e) When all of said assessments for grading, paving and  
92 curbing or macadamizing or other permanent improvements shall  
93 be paid in full to the treasurer, he shall deliver to the owner of said  
94 property a release of the lien therefor, which may be recorded in  
95 the office of the clerk of the county court as other releases of liens  
96 are recorded.

97 Under this plan for the payment of the cost of such perma-  
98 nent improvements of avenues, streets, roads and alleys, and the  
99 construction of sewers, the contractor (if the work is let to con-  
100 tract) shall look only to the city for the payment of the work, and  
101 in no sense to the abutting land owners.

Sec. 70. The board of commissioners may contract for such  
2 paving (including grading and curbing), or other said improve-  
3 ments, to be done as aforesaid, and may acquire or take land for  
4 street purposes, as aforesaid, and may if the board so elect stip-  
5 ulate that the costs thereof, in whole or in part, shall be paid in in-  
6 stallments by the abutting property owners, as provided in (a) of  
7 section sixty-seven, or specially benefitted property owners, as  
8 provided in (g) of said section, in five equal installments, to be  
9 evidenced by five paving certificates issued therefor, payable in  
10 thirty days, and one, two, three and four years, respectively, after  
11 the date of their issue, and shall bear interest not to exceed six  
12 per centum, per annum, which certificates, to be signed by the



13 mayor and clerk, or other person or persons designated of record  
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14 by the board, may be sold, either to the contractor doing the pay-  
15 ing or other said improvements, or to any other person, and which  
16 shall cover the entire cost of such work, or the cost of acquiring or  
17 taking land for street purposes, including the cost of surveys,  
18 notices and other things pertaining thereto; provided, the city in  
19 negotiating and selling such certificates, shall not be held as guar-  
20 antor or in any way liable for payment thereof, except upon the  
21 direct action of the board of commissioners as expressed by reso-  
22 lution of record before such sale. And the certificates covering  
23 the amount of the assessment shall be paid by the owner of the  
24 land, lot or fractional part thereof, so assessed for the cost of said  
25 improvement on such avenue, street, road or alley so paved or im-  
26 proved, of land acquired or taken, as aforesaid. The amount  
27 specified in said assessment certificates shall be a lien aforesaid in  
28 the hands of the holder thereof upon the lands, lot or part so as-  
29 sessed, and shall also be a debt against the owner of such real  
30 estate, and said amount shall draw interest from the date of said  
31 certificates, payable annually, and the payment of the debt may be  
32 enforced as provided by law for the collection of other debts, or  
33 such lien may be enforced as provided in this act in the name of the  
34 holder of such certificates.

35 After a contract has been made by the board to pave or other-  
36 wise permanently improve any public road, avenue, street or alley  
37 in said city under this act, and the paving or other permanent  
38 improvements, or stipulated part thereon, has been completed, or  
39 the cost of acquiring or taking land, as aforesaid, has been ascer-  
40 tained, the board shall assess the amount each lot shall bear and  
41 shall make a written report, stating the number of lots and the  
42 blocks or tracts of land when not laid off into lots, the amount  
43 the owners of such lots or land when known, and the amount as-  
44 sessed thereon; and when the said board approves said report, or  
45 modifies it and then approves it, a copy of said report, so adopted  
46 by the board when certified to by the city clerk of said city, may  
47 be recorded in the clerk's office of the county court of Cabell  
48 county in a trust deed book and shall be a continuing tax lien  
49 upon the lot or ground against which the assessment is made until  
50 the certificates as aforesaid are paid, except as otherwise provided  
51 in this act, and the clerk shall index the same in the name of each

52 lot or land owner mentioned therein. Provided that any property  
53 owner shall have the right to pay any assessment against his  
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54 property as soon as the same shall have been ascertained and  
55 anticipate all payments.

Sec. 71. The board of commissioners of said city are author-  
2 ized and empowered to order and cause to be constructed, in said  
3 city, or part within and part outside of the limits of said city, a  
4 public sewer, either main or lateral, or both, by contract or direct  
5 by the city, for the benefit of said city or any part thereof, and  
6 to purchase land or easement therein or to condemn land or ease-  
7 ment therein in the manner provided in this act, for such sewer;  
8 and when the board shall order the construction of any such sewer  
9 or any part thereof in said city, the owners of the property abutt-  
10 ing thereon or abutting upon an avenue, street, road or alley in  
11 which such sewer shall be constructed, or abutting on any land or  
12 easement therein specially procured for the purpose of the con-  
13 struction of a sewer therein, may be charged with all or any part of  
14 the cost thereof, including the cost of such sewer at and across  
15 intersections at avenues, streets, roads, and alleys adjacent there-  
16 to. If said work is let to contract, the provision of (i) of section  
17 sixty-seven shall apply.

18 When said sewer is completed in any one block, or between  
19 two designated points, the board of commissioners shall cause a  
20 report to be made in writing setting out the total cost of such sewer  
21 and a description of the lots or land as to location, frontage and  
22 ownership liable therefor, including the cost of acquiring or taking  
23 land or easement therein for such purpose and cost of surveys,  
24 notices, etc. therefor, together with the amount chargeable against  
25 each lot or piece of land and the owner thereof. If any lot fronts  
26 on two streets, or on a street and road, or on a street (or road) and  
27 alley in which a sewer is constructed, it may be assessed on both  
28 said streets, or street and road, or street and alley. Said board  
29 shall enter an order upon its records setting forth the location and  
30 owner of each lot or piece of land, and the amount of said sewer  
31 assessments there against, calculated in the same way as provided  
32 for street paving in (g) of section sixty-seven herein. The entry  
33 of such order shall constitute and be an assessment for such pro-  
34 portionate amounts so fixed therein against respective lots and land  
35 and the owners thereof; and said board shall thereupon certify  
36 the same to the treasurer for collection; and for the purpose of

37 facilitating the collection of such assessments against the proper-  
38 ties herein, the board of commissioners may issue assessment cer-  
39 tificates, with interest coupons attached thereto, to be delivered to  
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40 and charged against the city treasurer who shall collect the same  
41 and as such certificates and coupons are paid he shall deliver the  
42 canceled certificates to the party paying the same and the city  
43 clerk shall file a certified copy of said order with the clerk of the  
44 county court of Cabell County, who shall record the same in the  
45 proper trust deed book, and index the same in the name of each  
46 owner, of any lot or land thus charged with said assessment, and  
47 the assessments so made shall constitute and be a lien upon said  
48 lots or land, respectively, which shall have priority over all other  
49 liens except those for taxes due the state and county, and shall  
50 be on a parity with other taxes and assessments due the city.

51 The amounts so assessed against said abutting lots or land  
52 and which shall be a lien thereagainst, shall be collected in the  
53 manner provided in this act for the collection of paving liens.  
54 Said assessments shall be divided into three installments, each for  
55 one-third of the amount thereof, and the first due and payable  
56 in thirty days, the second in one year, and the third in two years  
57 from the time of certifying the same to the treasurer, except as  
58 hereinafter provided in this section, all bearing interest at six  
59 per centum per annum from such date, payable annually; and  
60 the board of commissioners may issue sewer certificates thereon,  
61 as of said date, as further evidence of said indebtedness and lien  
62 therefor, and said certificates may be sold or negotiated, at not  
63 less than par and without any kind of discount to the contractors  
64 doing such work, or other person if the board deem it expedient;  
65 provided, the city in negotiating and selling such certificates shall  
66 not be held as guarantor or in any way liable for payment thereof,  
67 except upon the direct action of the board of commissioners as  
68 expressed by resolution of record before such sale. But the owner  
69 of the land or lot so assessed may at any time anticipate and pay  
70 such assessment or certificate with accrued interest thereon. If  
71 such assessment shall not exceed fifteen dollars, it shall be in one  
72 amount due and payable in thirty days from date; if more than  
73 fifteen dollars and less than thirty dollars, then in two install-  
74 ments of equal amounts, due and payable in thirty days and one  
75 year, respectively, from date; and if more than thirty dollars,

76 then in three equal installments due and payable as first afore-  
77 said.

78 *Provided*, the board of commissioners may, if they so elect,  
79 order and cause the construction of any such sewer, and may  
80 acquire or take land or easement therein, either in or outside

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81 said city, or both for said sewer purposes, and assess all or any  
82 part of the cost thereof upon and against the abutting, adjacent,  
83 contiguous and other lots or land especially benefitted by the  
84 construction of such sewer, and said assessments shall be a lien  
85 upon such lots or lands, and a debt against the owners thereof  
86 for the amount so charged against them respectively, which debt  
87 may be collected as provided by law for the collection of other  
88 debts of like kind, and which lien may be enforced in the same  
89 manner as provided for the enforcement of paving liens in this act.

90 The board of commissioners, when they decide to order the  
91 construction of a sewer under this plan, shall, before doing the  
92 same, fix, by ordinance or resolution, the total amount of the  
93 special benefits to be derived from such improvements to the abut-  
94 ting, adjacent, contiguous, and other specially benefitted land or  
95 lots so assessed, setting out the names of the owners, the amount  
96 of the special benefits, and the approximate amount of the total  
97 costs of the proposed sewer, and the board may, in fixing such as-  
98 sessment, take into consideration the assessed value of the lots or  
99 land as fixed, for the last assessment year, for state and county  
100 purposes.

### *Release of Liens.*

Sec. 72. In addition to the provisions for the release of said  
2 assessment liens, either for street paving or other permanent  
3 street improvements, or construction of sewers, as elsewhere set  
4 out in this act, on the presentation by the land or lot owner of  
5 any of the certificates issued as aforesaid against him or his pre-  
6 decessor in title to such lot, the clerk of the county court shall  
7 mark upon the margin of the trust deed book at which said cer-  
8 tified report is recorded, that the lien is released to the land or  
9 lot mentioned in such certificate to the extent of the amount of  
10 the certificates thus exhibited; and the county clerk shall there-  
11 upon write across the face of each of said certificates the date of  
12 their production to him for the release of lien, and shall sign

13 his name thereto in his official capacity, for which he shall re-  
14 ceive in advance a fee of twenty-five cents for each certificate so  
15 marked, from the person demanding the release of the lien afore-  
16 said; but if more than one of the serial certificates against the  
17 land or lot or lots shall be produced at the same time, the fee of  
18 the county clerk shall not exceed twenty-five cents for the release  
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19 of the liens as to all of the certificates thus produced and relating  
20 to the same real estate.

21 *Provided*, that the owner of any lot or land against which  
22 any paving or sewer certificate is an unreleased lien of record  
23 shall make and produce to the county clerk, or some person for  
24 such owner shall make and produce such affidavit, setting out  
25 therein that such certificate (or certificates) has been paid in  
26 full, and after diligent search, cannot be found, said county clerk  
27 shall upon the payment of a fee of twenty-five cents, file and pre-  
28 serve said affidavit as a public document and shall forthwith note  
29 the release of said lien to the extent of said lost certificate (or  
30 certificates) and the lots or land against which it is a lien upon  
31 the margin of the trust deed book, as aforesaid, and noting there-  
32 with the filing of said affidavit, which shall operate as a release  
33 of such lien to the extent of such marginal notation. If the affi-  
34 davit so filed be false, the person making oath and subscribing  
35 thereto shall be guilty of a felony, and upon conviction thereof  
36 shall be fined not to exceed five hundred dollars, or sentenced to  
37 be confined in the penitentiary for a term of not more than one  
38 year, or both, in the discretion of the court passing sentence.

39 *Provided, further*, that any paving or sewer lien, which may  
40 be created in consequence of the provisions of this act, or a lien  
41 which may have heretofore been created in consequence of an act  
42 of which this is an amendment for an assessment, the last pay-  
43 ment of which is not yet due, shall not, under any circumstances,  
44 be a lien against the lot or land or fractional part of the lot or  
45 land, against which it may have been assessed and made a lien,  
46 for a longer period than one year after the last assessment or  
47 certificate of the same date and group, representing such lien, shall  
48 have become due and payable, unless some suit or action, at the  
49 termination of said one year period, shall be pending for the  
50 enforcement of such lien, or unless the amount of the lien or some  
51 part thereof is in some way involved in a suit or action pending  
52 at the end of said one year period; and further, that no such

53 paving or sewer lien heretofore placed to record in said county  
54 court clerk's office for an assessment the last payment of which is  
55 past due, shall remain or be a lien against the real estate therein  
56 described for a longer period than one year from the time this act  
57 takes effect, unless a suit shall be pending at the end of each one  
58 year period for the enforcement of said lien, or the amount thereof  
59 shall in some way be involved in some action then pending.

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60 All of the assessment certificates, which may be issued under  
61 the provisions of this act, shall be made payable at the office of  
62 the treasurer, who shall receive payments thereon when due, if  
63 tendered to him, and interest thereon, from the date of such  
64 payments shall cease. The treasurer shall keep a separate and  
65 special account of all said sum of money received by him, and he  
66 shall hold said money in trust for the person who thereafter de-  
67 livers to the treasurer for cancellation any and all certificates on  
68 which said treasurer has received full payment as aforesaid; but  
69 the owner of said certificates shall not be entitled to interest on  
70 said sum after the date of payment thereof to the treasurer.  
71 When the whole amount of any such assessment lien shall have  
72 been paid to the treasurer as aforesaid, or the treasurer shall be  
73 convinced that all of the paving or sewer certificates against any  
74 land, lot or fractional part of lot, shall have been paid in full, he  
75 shall, when demanded, execute a release of said lien in the manner  
76 hereinbefore provided for the release of paving liens. If the city  
77 shall have no person for treasurer, the clerk, unless some other  
78 person is designated by ordinance, which the board of commis-  
79 sioners is hereby authorized to enact, shall perform the duties  
80 here required to be performed by the treasurer.

Sec. 73. It shall be lawful for said city of Huntington to  
2 issue and sell its bonds, as provided in this act for the sale of  
3 other paving and sewer bonds, to pay the city's part of the cost  
4 of construction of said sewers and the paving or other permanent  
5 improvements of streets and alleys, as required by this act; and  
6 said city may levy taxes, in addition to all other taxes, authorized  
7 by law, to pay such bonds and interest thereon; *provided*, that the  
8 total indebtedness of the city for all purposes shall not exceed  
9 five per centum of the total value of all taxable property therein.  
10 It is expressly provided that no bonds shall be issued under  
11 the provisions of this act, unless and until the question of issuing  
12 said bonds shall have first been submitted to a vote of the people

13 of said city and shall have received three-fifths of all votes cast  
14 at said election for and against the same. The board of commis-  
15 sioners of said city may provide by ordinance for submitting to  
16 the people at any regular election, or special election called for  
17 that purpose, the question whether or not said city shall be  
18 authorized to issue bonds for the purpose specified in this act;  
19 but the ordinance relating to the issuance of said bonds, and the  
20 submission of the same to the vote of the people, need not specify  
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21 in detail the location of the improvements contemplated to be  
22 paid for out of, and works to be constructed with, the proceeds  
23 of sale of said aggregate issue authorized thereby; and if at such  
24 election the people by their vote thereon shall authorize the issu-  
25 ance of said bonds, said board of commissioners may order the  
26 sale of same, as needed for said improvements and works, dealing  
27 with all the requirements set forth in this act; and notwithstand-  
28 ing the provisions of sections two, three and six of chapter forty-  
29 seven of the code, it shall be sufficient description of the purpose  
30 for which said election is held for the ordinance calling the same,  
31 or submitting said question to a vote at any general election, if  
32 it shall recite that it authorizes the board of commissioners to  
33 issue bonds for the purpose of grading, paving, curbing, sewer-  
34 ing, or otherwise permanently improving the streets, roads, and  
35 alleys of said city, or the leasing, purchasing, erecting, main-  
36 taining and operating the water works system authorized by this  
37 act, at such time as the board of commissioners shall deem fit  
38 or expedient.

39 The provisions of chapter forty-seven-a of the code, con-  
40 cerning bond elections shall, so far as they are not in conflict with  
41 the provisions of this chapter, apply to the bond election and  
42 special election herein provided for.

Sec. 74. For the purpose of leasing, purchasing or erecting,  
2 owning, maintaining, and operating a system of water works for  
3 the city and the inhabitants and industries thereof, and the in-  
4 habitants and industries of any territory adjacent to the territory  
5 of the city of Huntington which the board of commissioners may  
6 from time to time agree to supply from the city water works, as  
7 provided for in this or any other act of the legislature, said city  
8 of Huntington is hereby authorized to issue and sell its bonds,  
9 which shall bear interest not to exceed six per cent per annum,  
10 interest payable annually, by which to procure funds for such pur-

11 pose; and for said purpose the city may issue and sell its bonds  
12 to an amount equal to two and one-half per centum on the tax-  
13 able property therein in addition to the aggregate of its debts  
14 for all other purposes and of every kind whatsoever, and especially  
15 in addition to the bonds, and other debt provided for and re-  
16 ferred to in section seventy-nine of said chapter three of the acts  
17 of one thousand nine hundred and nine. *Provided*, that the  
18 total indebtedness of said city for all purposes shall not exceed  
19 five per centum of the total value of all taxable property therein.

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20 But said city shall not make such issue and sale of bonds  
21 without at the same time providing for the collection of a direct  
22 annual tax sufficient to pay annually the interest on such debt  
23 and the principal thereof within and not exceeding thirty years,  
24 and for the purpose of aiding in the payment of any bonds issued  
25 under the provisions of this act, to enable the city to lease, pur-  
26 chase, own, operate and maintain a water works and system, the  
27 commissioners of the city are hereby authorized to lay a levy of  
28 not exceeding ten cents on the hundred dollars valuation on all  
29 taxable property in the city, which said levy may be in addition to  
30 the aggregate of all other levies, authorized by law; and any reve-  
31 nue derived from said water works over and above the expenses  
32 of operating and maintaining the same, shall be applied to the  
33 payment of the bonds issued therefor.

Sec. 75. The cost of any improvement contemplated in this  
2 act and for which assessments may be made, shall only include the  
3 cost of printing and publishing all notices required to be publish-  
4 ed, and cost of construction.

Sec. 76. In setting forth the lots and lands abutting upon  
2 the improvement it shall be sufficient to describe them as the lots  
3 and lands abounding and abutting upon said improvements, be-  
4 tween and including the termini of said improvement, or by the  
5 description by which they are described on the land books of the  
6 county in which said lots are situate; and this rule of description  
7 shall apply in all proceedings in which lots or lands are to be  
8 charged with special assessment.

Sec. 77. When work shall have been completed on any  
2 avenue street, road or alley or part thereof, as provided in section  
3 sixty or section sixty-seven, or the construction of any sewer or  
4 other work shall have been completed on any avenue, street, road  
5 or alley, or part thereof, or elsewhere, as provided in section



6 sevtny-one, and said assessments there against shall have been cal-  
7 culated as provided in this act, the board of commissioners shall  
8 give notice, by publication at least once a week for two successive  
9 weeks in two newspapers of opposite politics, published in said  
10 city, or in one newspaper if two such papers be not published in  
11 said city, that an assessment under this act is about to be made  
12 against the property so assessed and the owners thereof, mention-  
13 ing the kind of work and the location thereof; and the owners of  
14 said property shall have a right to appear before said board,  
15 either in person or by attorney or agent, at any regular or special  
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16 meeting called for that purpose within two weeks of the first  
17 publication thereof, and move the board to correct any apportion-  
18 ment of the assessment excessive or improperly made; and the  
19 board shall have the power to make any such corrections before it  
20 enters the same, as corrected, upon the records. If the publica-  
21 tion in the newspapers aforesaid cannot be had at reasonable rates,  
22 the notice may be given in some other manner designated of record  
23 by the board. The fact that said assessments shall have been  
24 entered of record, as provided by this act, shall be prima facie  
25 proof that the notice mentioned herein was given as prescribed in  
26 this section.

Sec. 78. For the purpose of making examinations of per-  
2 sons for officers or positions in the police and fire departments  
3 (excluding the chiefs thereof) and prescribing rules for their  
4 conduct, seven members of the citizens board, appointed by the  
5 president thereof, one from each ward of the city, which shall be  
6 chosen from opposite political parties when possible, shall act  
7 and be known as the "Civil Service Board". The president of the  
8 citizens board shall be the presiding officer of said board, a major-  
9 ity of which shall constitute a quorum for business, but shall  
10-11 have not part in the deliberation of the said board, except in case  
12 of tie, and the city clerk shall be ex-officio clerk of the said  
13 board. The civil service board shall adopt rules for its own  
14 government, and cause the minutes of its meetings to be recorded  
15 in a book provided for that purpose, which shall be kept by the  
16 city clerk at his office, and open to public inspection. The civil  
17 service board shall meet at least once a year, and oftener if it  
18 deems it necessary, or if called by the presiding officer, after  
19 ten days notice to the public published in two daily newspapers  
20 of opposite politics giving the time and place of meetings, hold

21 examinations for the purpose of determining the fitness and quali-  
22 fications of applicants for positions in the police department and  
23 the fire department, which examination shall fairly test the fit-  
24 ness of the persons examined to discharge the duties of the posi-  
25 tion to which they seek appointment, and such examinations and  
26 declarations of the result thereof shall be made with the aim to  
27 secure and maintain an honest and efficient police force and fire  
28 department. Said board shall at once after each of such exami-  
29 nations place to record in the journal of the civil service board the  
30 result of such examination, giving the names of applicants and  
31 positions sought by them and their respective percentages based

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32 on one hundred. In making such examinations the size, health,  
33 physical appearance, habits and moral surroundings shall be tak-  
34 en into consideration and the result of such examination shall be  
35 by the board certified to the commissioners and the said commis-  
36 sioners in their appointments shall elect their appointees from the  
37 list so certified. Civil service examinations and appointments  
38 shall apply to all policemen and firemen, except the chiefs of each  
39 department.

Sec. 79. All appointive officers shall hold their positions  
2 at the pleasure of the board of commissioners, except those ap-  
3 pointed under the civil service rules, and they may be removed  
3 for cause by the board of commissioners, and the members of  
4 the police and fire department under civil service rules shall  
5 take no part in elections except to vote, and any violation of this  
6 provision by members of either department shall be deemed mis-  
7 conduct and shall render such person or persons subject to dis-  
8 missal by the board of commissioners after trial and conviction  
9 of such person or persons therefor, as heretofore provided for in  
10 in this act.

Sec. 80. In making appointments to the police department  
2 and the fire department, whether original, or to fill vacancies  
3 therein from time to time, the board of commissioners or mayor  
4 shall select from the applicants for said respective positions those  
5 who, under said civil service examinations, received an average  
6 grade of sixty or more, giving preference to the applicant re-  
7 ceiving the highest grade and whose said grade certificate is the  
8 oldest.

9 When the list of names of applicants, who are eligible as  
10 prescribed in this section, shall have been exhausted, then the

11 board of commissioners may make said appointments from the  
12 list of persons who may apply therefor, disregarding, if they  
13 choose, those applicants who stood civil service examination and  
14 received thereon a grade below sixty.

Sec. 81. All persons appointed to a position in the police  
2 department and fire department under this act (except the chief  
3 of police and the chief of fire department) shall hold their offices  
4 or positions during good behavior. The board of commissioners  
5 shall hear and determine all charges against any officer or employee  
6 of said city after ten days' notice to the accused of the charges  
7 preferred against him, and the time and place of hearing on  
8 such charges, and an opportunity to the accused to be heard at such  
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9 meeting in his defense. After thus hearing such charges the  
10 board of commissioners, by a majority vote of the members  
11 elected, may sustain the same and dismiss said accused from the  
12 service of the city. The mayor, pending the trial on any such  
13 charges, may suspend the accused officer or employee without  
14 pay, and if he shall finally be dismissed from the service he shall  
15 receive no pay, but if the charges against such officer or employee  
16 are not sustained, he shall be paid the salary during such period  
17 of suspension.

Sec. 82. The board of commissioners may adopt, by ordi-  
2 nance, a code of laws and ordinances, which when adopted shall be  
3 printed in book form, or it may be adopted as a whole after it is  
3-a printed, and said code shall be the law and ordinances of said  
4 city, and shall be received as such in all the courts of this state,  
5 and the laws, ordinances, franchises, and rules when printed  
6 therein shall be *prima facie* proof of their correctness.

#### *Serving Notice.*

Sec. 83. Whenever any notice is required to be given, or  
2 any summons, warrant or other process is required to be served  
3 or otherwise executed, under the provisions of this act, it shall  
4 be sufficient if such notice, summons, warrant, or other process  
5 be executed by an officer of the police department of said city in  
6 the same way or manner in which the laws of the state prescribe  
7 for executing summons and subpoenas by the state officers, un-  
8 less otherwise provided by this act.

Sec. 84. The mayor and members of the board of commis-  
2 sioners and members of the citizens board as now constituted, and

3 all the officers of the city of Huntington, shall continue in their  
4 respective offices until their successors have been elected and  
5 qualified as provided in this act, and shall exercise their rights,  
6 powers and duties in the city of Huntington in the same manner  
7 and to the same effect as if this act had not been passed, and shall  
8 continue in their said office and perform such duties as are re-  
9 quired of them under this charter until their successors have been  
10 elected and qualified, or appointed and qualified, under the pro-  
11 visions of this act, and all the ordinances, laws and resolutions  
12 now in force shall remain in force except such as are in conflict  
13 with this act.

14 That on or before the first day of August, one thousand nine  
15 hundred and nineteen, there shall be a re-organization of the police

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16 force of the city of Huntington as now constituted, and the power  
17 is hereby vested in the mayor and the board of commissioners of  
18 the said city of Huntington to consider the present appointment  
19 of the chief of police and any member of the said police force of  
20 said city at an end on or before the said date aforesaid, and their  
21 respective offices or positions vacant, and to be filled in accord-  
22 ance with the provisions of this act.

Sec. 85. The city clerk, except as may be otherwise pre-  
2 scribed, by the board of commissioners, shall be the custodian of  
3 all the records and papers pertaining to the city of Huntington,  
4 and the citizens board, and said records and papers shall be kept  
5 by him at his office open to public inspection.

Sec. 86. Each political party shall at the general elections  
2 held under this charter elect a political committee consisting of  
3 one member from each ward; said committee shall elect a chair-  
4 man and secretary at large, and the chairman and secretary of  
5 said committee shall be members of the committee and entitled  
6 to vote, and shall continue in office until their successors are  
7 elected. The said committee shall perform all the duties re-  
8 quired by the provisions of this act and the general laws of the  
9 state of West Virginia relating to elections.

Sec. 87. All other acts and parts of acts coming within the  
2 purview of this act, and inconsistent herewith, and not included  
3 in the provisions of this act, are hereby repealed.

[Sec. 88. This act shall be in effect from date of passage.]

## ENGROSSED

**House Bill No. 14**

[BY MR. CUNNINGHAM.]

**A BILL** pertaining to the public health.*Be it enacted by the Legislature of West Virginia:*

Section 1. That the state of West Virginia shall purchase 2 and furnish free of charge to each county within the state, a sufficient supply of diphtheria anti-toxine, the amount of which shall 3 be determined by the county health officer of each county, and deposited in such drug-stores or store within said county as said 4 county health officer may designate, and such anti-toxine shall be 5 kept at said drug-stores or store at all times and in sufficient 6 quantities to be delivered to any licensed physician by said drug- 7 stores or store, and by said physicians to be used upon persons in- 8 fected with diphtheria, or to prevent the same.

Sec. 2. The anti-toxine mentioned in the preceding section 2 shall be bought by the state commissioner of health and by him 3 distributed to the various drug-stores or stores designated by the 4 county health officers of the various counties of this state, and such

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5 county health officers shall designate such drug-stores or stores as 6 they may think proper as depositories for said anti-toxine, and the 7 state commissioner of health shall deliver to the drug-stores or 8 stores aforesaid, so named as depositories, so much anti-toxine as 9 may be reasonably necessary for use in each of said counties for 10 the purposes aforesaid, and take a receipt from the proprietor of 11 such drug-stores or store for the same. And the auditor of the 12 state shall pay the actual cost of such anti-toxine and the cost of 13 the delivery of the same to such drug-stores or stores, upon the 14 presentation of the original invoices thereof, duly verified by affidavit, and approved by the state health commissioner, and shall 15 in addition thereto pay to the drug-stores or stores for delivery of 16 the same to the physicians aforesaid, ten percent commission of the 17 original cost of said anti-toxine so delivered to the physicians 18 aforesaid. And the legislature at each session thereof shall make 19 appropriations for the payment of said anti-toxine and the commissions thereon.

Sec. 3. All acts and parts of acts coming within the purview 2 of this act, and inconsistent herewith, are hereby repealed.

# House Bill No. 275

[BY MR. MCCLAREN.]

Introduced February 10, 1919. Referred to the Committee on Roads and Internal Navigation. February 11, reported back with the recommendation that it do pass; February 15, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL for the construction and repair of roads and bridges on the line between or connecting in corporate cities, towns and villages, within the same county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. When it becomes necessary to build or repair any  
2 bridge across any stream on the line between two incorporated  
3 cities, towns or villages situate in the same county, or to con-  
4 struct or improve according to any plan of state aid, or to keep  
5 in repair any road or roads between two such incorporated cities,  
6 towns or villages, or along the boundary lines thereof, the coun-  
7 cils of such cities, towns or villages, may enter into such agree-  
8 ment therefor, as to them shall seem best, but if they disagree in  
9 relation thereto, it shall be the duty of the councils of such cities,  
10 towns or villages, to appoint two special commissioners, who, to-  
11 gether with the county road engineer of the county wherein such  
12 cities, towns, or villages are situate, or some special commissioner of  
13 the county court appointed in lieu of such road engineer, shall  
14 meet and arrange the matter, and shall make report to each of  
15 the bodies so appointing them of the work necessary to be done,

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16 and the probable cost thereof and the proportionate share of such  
17 cost that each of said cities, towns or villages should assume;  
18 and whenever a decision is arrived at by such commissioners it  
19 shall be submitted to the councils of the cities, towns or villages  
20 and if they agree and adopt the report of said commissioners and  
21 confirm the same by the council of each of said cities, towns or  
22 villages, sitting separate, it shall be binding.

23 If the council of one of such cities, towns or villages confirm  
24 the report of the commissioners, and the other city, town or vil-  
25 lage fails or refuses to confirm such report, the city, town or  
26 village confirming the report may report the refusal or failure of  
27 the other city, town or village to confirm said report to the county

28 court, and if, after a hearing of the parties interested before such  
29 county court, it shall confirm the report of said commissioners, its  
30 decision shall be binding upon each of said cities, towns or  
31 villages. .

32 If the council of either of such cities, towns or villages, when  
33 required to do so by the other city, town or village, or if the  
34 county court of the county wherein such cities, towns or villages  
35 are situate shall fail to appoint commissioners as herein required,  
36 or if either of such cities, towns or villages shall fail in any  
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37 respect to fulfill its part of the agreement with respect to the  
38 work, or if either of such cities, towns or villages shall fail or  
39 refuse to prosecute and complete any work ordered by the county  
40 court under the conditions as hereinbefore set forth, the remedy  
41 by mandamus shall lie before the circuit court of the county  
42 wherein such cities, towns or villages are situate, on behalf of  
43 the council of either city, town or village to compel the county  
44 court or council complained of to do what ought to be done in  
45 the matter.

Sec. 2. When the work as set forth in the preceding section  
2 is undertaken, it shall be prosecuted under the conditions as set  
3 out in sections eighty, eighty-one and eighty-two of chapter  
4 forty-three of Barnes' code of one thousand nine hundred and  
5 eighteen, insofar as said sections are applicable.

Sec. 3. All acts and parts of acts inconsistent with this act  
2 are hereby repealed.

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## House Bill No. 115

[BY MR. MOORE.]

Introduced January 20, 1919. Referred to the Committee on the  
Judiciary. January 22, reported back with the recommendation  
that it do pass; January 23, coming up in regular order, was read a  
first time and ordered to its second reading.

A BILL to amend and re-enact chapter ninety-three of the acts of  
one thousand nine hundred and fifteen, and section twenty-two  
of chapter one hundred and thirty-seven of the Barnes' code,  
one thousand nine hundred and sixteen, and all other acts and  
parts of acts in conflict herewith relating to jailers' fees in civil

and criminal cases and to add thereto sections twenty-two-*a*, twenty-two-*b* and twenty-two-*c*, providing for expenses and allowance of sheriffs and time of settlement and salary.

*Be it enacted by the Legislature of West Virginia:*

That chapter ninety-three of the acts of one thousand nine hundred and fifteen and section twenty-two of chapter one hundred and thirty-seven of the code, and add thereto sections twenty-two-*a*, twenty-two-*b* and twenty-two-*c*, and all other acts or parts of acts in conflict herewith, be and the same are hereby amended and re-enacted so as to read as follows:

Section 22. The sheriff as jailer, in addition to the salary 2 allowed him by chapter one hundred and thirty-seven of the code, 3 one thousand nine hundred and sixteen, shall be paid for re-

ceiving a person in jail twenty-five cents, and a like sum for dis-  
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5 charging him therefrom.

6 For keeping and supporting a person confined in jail, for  
7 each day the sum of sixty cents.

8 For each person sentenced to work at public work the sheriff  
9 shall be allowed the sum of ten cents, in addition to the amount  
10 hereinbefore authorized to be paid by the county court, for each  
11 day such person is employed at public work and kept and sup-  
12 ported by such jailer.

13 For attending upon the circuit and county courts, he shall  
14 be allowed a just and adequate compensation by the county court  
15 and paid out of the county treasury.

16 In cases of felony, and in cases of misdemeanor, the fees of  
17 the jailer shall be paid out of the county treasury, and in all  
18 civil cases by the party at whose instance a person is committed  
19 to jail.

Sec. 22-*a*. In making the settlement provided for in section  
2 sixteen of chapter one hundred and thirty-seven of the code, the  
3 present sheriffs shall be allowed three months and until the first  
4 day of April following the expiration of their terms in which to  
5 make their settlements as of December thirty-one, one thousand

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6 nine hundred and twenty, and shall be allowed therefor the same  
7 monthly compensation they now receive.

Sec. 22*b*. Any taxpayer feeling aggrieved at the allowance



2 made by the county court to the sheriff and any sheriff feeling  
3 that the business of his office cannot be conducted properly by the  
4 maximum allowance fixed by the county court for office expendi-  
5 tures, or the number of deputies and their salaries, shall be al-  
6 lowed the right of appeal to the circuit court of such county for  
7 the purpose of determining the equity of such maximum allow-  
8 ance.

Sec. 22-c. The premiums for bonds required to be furnished  
2 by the sheriff, if a surety bond be given, shall be paid for by the  
3 county court or other tribunal acting in lieu thereof out of the  
4 county treasury.  
2 inconsistent herewith are hereby repealed.

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## House B 11 No. 223

[BY MR. WYSONG.]

Introduced January 30, 1919. Referred to the Committee on the  
Judiciary. February 15, was taken up out of regular order for con-  
sideration, read a first time and ordered to its second reading.

A BILL to authorize the payment of the expenses of the members  
of county courts.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That members of county courts in the several  
2 counties of the state are hereby authorized to pay out of the  
3 county treasury their actual expenses incurred in traveling to and  
5 county; said expenses shall not, however, exceed ten dollars per  
4 going from and while in attendance of the county courts of each  
6 month for each member, payable quarterly.

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## House Bill No. 152

[BY MR. WEISS.]

Introduced January 23, 1919. Referred to the Committee on  
Counties, Districts and Municipal Corporations; February 8, reported  
back with the recommendation that it do pass; February 10, coming  
up in regular order for consideration, was read a first time and ordered  
to its second reading.

A BILL to amend and re-enact section two of chapter twenty-one of the acts of one thousand nine hundred and fifteen (greater Wheeling charter) and approved by a majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May in the year one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter twenty-one of the acts of one thousand nine hundred and fifteen, (greater Wheeling charter), and approved by a majority of the voters of the city of Wheeling at an election held on the fourth Thursday in May in the year one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

Section 2. The city of Wheeling may extend its boundaries  
2 from time to time to include territory within Ohio county as in  
3 this section provided. Such extension of boundaries shall be pro-  
4 posed by a resolution of the city council of the city of Wheeling  
5 which resolution shall (a) accurately define the boundary lines

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6 proposed to be established; (b) fix a time for holding a special  
7 election at which the proposed change of boundaries shall be sub-  
8 mitted to the qualified voters of the city of Wheeling and of the  
9 territory proposed to be annexed for approval or rejection; (c)  
10 direct that notice of such election be published in each of the  
11 daily and weekly newspapers in the city of Wheeling once a week  
12 for four successive weeks, the last publications to be not more  
13 than ten days before the day of the election; (d) prescribe the  
14 form of the ballot to be used at such election.

15 *It is provided, however,* that no annexation of territory to  
16 the existing boundaries of the city of Wheeling shall become  
17 effective or operative unless and until the voters of the territory  
18 proposed to be annexed shall vote upon the question of whether  
19 or not they will become a part of the city of Wheeling; the vote  
20 of such territory shall be taken upon the question "for annexa-  
21 tion" and "against annexation" and shall be held not later than  
22 six months after the passage of this act; and the vote shall be  
23 taken separately by each municipality and other territory proposed  
24 to be annexed and a majority vote in each separate unit so voting  
25 shall be necessary to its annexation. All elections authorized by

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26 this act shall be published, held and their results declared accord-  
27 ing to the law governing elections.

28 If, by the proposed extension of boundaries, any municipal  
29 corporation would be included within the new boundaries, the city  
30 council of Wheeling, through the city solicitor, shall notify the  
31 mayor of such municipality of the proposed extension of boun-  
32 daries at least six weeks before the time fixed for the election  
33 herein provided for, whereupon it shall be the duty of the city  
34 council of such municipality to provide for such election by ap-  
35 pointing judges and clerks for each precinct within such muni-  
36 cipality and certify the name of such appointees to the city council  
37 of Wheeling within three weeks of the service of notice upon the  
38 mayor thereof. If such certificate is not so filed, the city council  
39 of Wheeling shall appoint such judges and clerks of election.  
40 Qualified voters residing in any territory to be included within  
41 such extended boundaries and which is not within the limits of  
42 a municipal corporation may vote at such election at a precinct  
43 convenient to their respective places of residence. So far as they  
44 are applicable, and except as specific provision is made in this  
45 charter, such election shall be governed by the general election  
46 laws of the state of West Virginia.

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47 If a majority of the votes cast at such election shall be in  
48 favor of the proposed extension of boundaries, when the result is  
49 ascertained and certified, the mayor of the city of Wheeling shall  
50 issue his proclamation of such result and cause the same to be  
51 published in each daily and weekly newspaper in the city of  
52 Wheeling within five days of such certification, and on and after  
53 the publication of such proclamation the boundaries proposed in  
54 the resolution herein provided for shall be the boundaries of the  
55 city of Wheeling, and the corporate existence of any municipality  
56 included within such extension shall thereupon cease and de-  
57 termine.

58 The failure, neglect or refusal of the publisher of any news-  
59 paper in Wheeling to publish either the notice or proclamation  
60 herein provided for shall not effect the validity of the proceed-  
61 ings to extend the boundaries of the city of Wheeling if such  
62 publication shall appear in two of such papers.

63 But the city of Wheeling shall not so extend its boundaries  
64 as to include territory at the time within the limits of another

65 municipal corporation unless such extension includes all of the  
66 territory of such other municipality.

67 If, at the time of an extension of its boundaries, the city  
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68 of Wheeling shall have a bonded indebtedness the taxes there-  
69 after levied to provide for such indebtedness, principal and in-  
70 terest, shall be levied upon the taxable property within the cor-  
71 porate limits of the city of Wheeling as they existed before the  
72 extension of its boundaries. In case such extension of boundaries  
73 by the city of Wheeling shall include another municipal corpora-  
74 tion, which other municipality at the time of such extension shall  
75 have a bonded indebtedness, the taxes thereafter levied to pro-  
76 vide for such bonded indebtedness, principal and interest, shall  
77 be levied upon the taxable property within the corporate limits  
78 of such other municipality as they existed before such extension  
79 of boundaries.

80 In case an extension of the boundaries of the city of Wheel-  
81 ing shall include another municipal corporation, all the debts  
82 and obligations of such other municipality so included shall be-  
83 come and be the debts and obligations of the city of Wheeling  
84 and shall be enforceable against the city of Wheeling to the same  
85 extent as they might have been enforced against the municipality  
86 creating them.

87 The extension of the boundaries of the city of Wheeling  
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88 shall not effect the boundaries or the organization of any school  
89 district theretofore existing.

90 This act shall take effect and be enforced from and after the  
91 passage.

92 All acts and parts of acts, inconsistent with this act, are  
93 hereby repealed.

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ENGROSSED.

## House Bill No. 153

[BY MR. STARCHER.]

A BILL to regulate the practice of architecture in the state of West  
Virginia.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Within sixty days after the passage of this act,

2 the governor of the state of West Virginia shall appoint five per-  
3 sons who shall be, at the time of this appointment, architects re-  
4 siding in the state of West Virginia, and who have been engaged  
5 in the practice of their profession for at least five years; the said  
6 five persons shall constitute the "West Virginia State Board of  
7 Architecture"; two of whom shall be appointed to hold office for  
8 one year and three of whom shall be appointed to hold office for  
9 two years, not more than three of which shall be from any one  
10 political party.

Sec. 2. Upon the expiration of the term of each member,  
2 the governor shall appoint his successor for a term of two years,  
3 in like manner as the previous appointments; each member shall  
4 hold over after the expiration of his term until his successor shall  
5 have been duly appointed and qualified.

Sec. 3. Any vacancy occurring in the membership of the  
2 state board of architecture shall be filled for the balance of the  
3 unexpired term in like manner.

Sec. 4. The members of the state board of architecture shall,  
2 before entering upon the discharge of their duties, and within  
3 thirty days after their appointment, take and subscribe an oath  
4 before any officer authorized to administer oaths in the state for  
5 the faithful performance of duty, and file same with the secretary  
6 of state, and they shall as soon as organized, and annually there-  
7 after in the month of January, elect from their number a president  
8 and a secretary who shall also be treasurer. The treasurer shall  
9 file a bond for the penal sum of one thousand dollars with the  
10 secretary of state, said bond to be accepted and approved by the  
11 secretary of state before the treasurer shall enter upon the duties  
12 of his office.

Sec. 5. The board shall adopt all necessary rules, regulations,  
2 and by-laws to govern its proceedings not inconsistent with the  
3 laws of this state or of the United States, and shall adopt rules  
4 and regulations for the examination and registration of applicants  
5 desiring to practice architecture in accordance with the provisions  
6 of this act. The board may amend, modify, or repeal any such  
7 regulations from time to time. The board shall adopt a seal, and  
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8 the secretary shall have the care and custody thereof, and shall  
9 keep a record of all the proceedings of the board which shall be  
10 open to public examination.

Sec. 6. Three members of the board shall constitute a  
2 quorum.

Sec. 7. The board shall immediately upon the election of  
2 each officer thereof, and upon the adoption, repeal or modification  
3 of the rules and regulations for the registration of applicants, file  
4 with the secretary of state and publish in at least one daily news-  
5 paper in the state, the names and post office addresses of each  
6 officer, and a copy of such rules and regulations, or the amend-  
7 ment, repeal, or modification thereof.

Sec. 8. Special meetings of the board shall be called by the  
2 secretary upon the request of any two members by giving at least  
3 five days' written notice of the meeting to each member.

Sec. 9. Provision shall be made by the state board of archi-  
2 tecture for holding examinations at least twice a year of applicants  
3 for registration to practice architecture if there shall be any such  
4 applicants. Any person of good moral character, over twenty-  
5 one years of age, upon payment of a fee of fifteen dollars to the  
6 treasurer of the board, shall be entitled to enter any examination

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7 to determine the qualification for such registration.

Sec. 10. If the examination of any applicant for registration  
2 shall be satisfactory to the majority of the board, upon the pay-  
3 ment of an additional fee of ten dollars to the treasurer of said  
4 board, a certificate shall be issued to said applicant authorizing  
5 him to practice the profession of architecture. Any person who  
6 shall, at the time of the passage of this act have been engaged in  
7 the practice of architecture in this state, for not less than one  
8 year and who shall present to the state board an affidavit to that  
9 effect within ninety days after the passage of this act, or any  
10 person who shall present to the state board a certificate from a  
11 similarly constituted board of another state, or any person who is  
12 a member in good standing of the American Institute of Architects  
13 shall be entitled to receive such certificate without examination  
14 upon the payment to the said board of a fee of ten dollars. Each  
15 person receiving a certificate shall cause same to be recorded in  
16 the office of the secretary of state, and shall during the month of  
17 May in each year, pay to the treasurer of the board a license fee of  
18 five dollars. Notice of the failure to pay the annual license fee  
19 required by this section shall be given to any architect so failing,  
20 by the secretary of the board. This notice shall also state that  
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21 upon the payment of such annual license fee and an additional  
22 renewal fee of five dollars to the treasurer of said board before the  
23 first day of the following December, the treasurer will issue such  
24 license receipt. The board shall revoke the certificate of each  
25 person failing to pay the license fee as above provided in this  
26 section. The board may make rules and regulations regarding the  
27 re-issue of a certificate to any person whose certificate has been  
28 forfeited under this section, and in said rules may fix the fee upon  
29 the payment of which said certificate may be re-issued.

Sec. 11. Any certificate granted by the said board as above  
2 provided may be revoked by the said board for gross ignorance,  
3 recklessness, incompetency, dishonest practices, or other good and  
4 sufficient reasons, but before any certificate shall be revoked the  
5 holder thereof shall be entitled to at least twenty days' notice of  
6 the charges against him, and of the time and place of the meeting  
7 of the board for the purpose of hearing and determining such  
8 charge; for such purpose the board shall have the powers of a  
9 court of record, sitting in the county in which its meeting shall  
10 be held, to issue subpoenas and to compel the attendance and  
11 testimony of witnesses; witnesses shall be entitled to the same fee  
12 as a witness is allowed in the circuit courts of this state, to be

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13 paid in like manner. The accused shall be entitled to the subpoena  
14 of the board for his witnesses, and a reasonable opportunity to  
15 produce his witnesses, and to be heard in person or by counsel, in  
16 open public trial. The members of the board shall have power to  
17 administer oaths and conduct such examination of witnesses under  
18 oath; and no certificate shall be revoked except upon the unani-  
19 mous vote of all members of the board. Any revocation of cer-  
20 tificates shall be certified in writing by said state board of archi-  
21 tecture, under the hand of its president or its president for the  
22 time being, and attested by the secretary, with the official seal of  
23 said board affixed thereto, and such certificate of revocation shall  
24 be filed in the office of the secretary of state, who shall be paid  
25 the usual fee for filing similar documents in his office.

Sec. 12. Any person whose certificate shall be refused or  
2 revoked by the said state board shall have the right of appeal by  
3 certiorari to the supreme court of appeals for a review of such  
4 action of said board and the state board shall forthwith carry out  
5 the judgment of the supreme court of appeals to such review.

Sec. 13. After six months from the passage of this act it

2 shall be unlawful and it shall be a misdemeanor punishable by a  
3 fine of not less than fifty dollars, nor more than five hundred  
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4 dollars for each and every week during which said offense shall  
5 continue, for any person to practice architecture without a license  
6 in this state, or to advertise or put out any sign or card, or other  
7 device which might indicate to the public that he or she is entitled  
8 to practice as an architect. Said penalty can be recovered in an  
9 action of debt, in the name of the state board of architecture,  
10 which said penalty, when recovered, shall be paid into the treasury  
11 of this state.

Sec. 14. Any person who shall be engaged in the planning or  
2 supervision of the erection, enlargement, or alteration of buildings  
3 for others, and to be constructed by other persons than himself,  
4 shall be regarded as an architect within the provisions of this act,  
5 and shall be held to comply with the same; but nothing contained  
6 in this act shall prevent the draughtsmen, students, clerks of  
7 works, or superintendents, and other employees of those lawfully  
8 practicing as architects, under license as herein provided for, from  
9 acting under the instruction, control, or supervision of their  
10 employers; or shall prevent the employment of superintendents of  
11 buildings paid by the owners from acting, if under the control and  
12 direction of a licensed architect who has prepared the drawings  
13 and specifications for the building. The term building in this

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14 act shall be understood to be a structure consisting of foundations,  
15 walls and roof, with or without the other parts. A civil engineer  
16 shall not be considered as an architect unless he plans, designs  
17 and supervises the erection of buildings, in which case he shall  
18 be subject to all the provisions of this act, and shall be considered  
19 as an architect.

20 This act shall not apply to anyone connected with the office  
21 of the supervising architect of the United States treasury depart-  
22 ment. This act shall not apply to architects of other states, when  
23 associated with or consulting with any licensed architect of this  
24 state. This act shall not apply to persons who construct and erect  
25 private buildings, under their own plans and specifications, costing  
26 less than eight thousand dollars.

Sec. 15. Each licensed architect shall post his certificate in  
2 a prominent place in his office or other chief place of business,  
3 and shall also have a seal, the impression of which shall contain



4 the full name of the architect and the words "licensed architect,  
5 state of West Virginia," which seal shall be affixed to all drawings,  
6 plans and specifications prepared and issued by him for use in the  
7 state.

Sec. 16. The expense of the state board of architecture  
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2 and the offices thereof, and the examinations held by said board,  
3 and of any other matter in connection with the provisions of this  
4 act, including the expenses of prosecuting violators of this act,  
5 shall be paid from the examination and license fees above provided  
6 for, and not otherwise.

Sec. 17. An itemized account of all the receipts and ex-  
2 penditures of the said board shall be kept by the secretary, and a  
3 detailed report thereof, each year ending with the thirtieth of  
4 April, duly verified by the affidavit of said secretary, shall be filed  
5 with the treasurer of the state of West Virginia within sixty days  
6 thereafter.

Sec. 18. The members of the board shall be entitled to re-  
2 imbursement for their traveling and hotel expenses incurred in  
3 pursuance of their duties; not however to exceed five dollars per  
4 diem for each member of the said board. The secretary and  
5 treasurer of the state board of architects shall receive such annual  
6 compensation as shall be provided by the board, by resolution  
7 adopted by it at a regular meeting.

8 No member of the board shall be held personally responsible  
9 for any portion of the salary of the secretary and treasurer, should  
10 the fees received by said board be insufficient to meet the same.

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Sec. 19. Any surplus of fees in the treasury over and above  
2 the sum of one thousand dollars after the payment of the expenses  
3 of the members of the board and the salary of the secretary and  
5 treasurer, as herein provided, or shall be paid annually to the  
6 treasurer of the state of West Virginia, and shall thereafter be  
7 paid out only upon the warrant and authority of the treasurer  
8 of the state of West Virginia.

ORDERED PRINTED BY THE COMMITTEE.

# House Bill No. 231

[Originating in the Committee on Education.]

A BILL to amend and re-enact sections twenty-eight, fifty-nine, eighty-seven, one hundred thirty, one hundred thirty-one, one hundred thirty-two, one hundred thirty-three and one hundred thirty-four, and to appeal sections one hundred fifty-five-*a* (1), one hundred fifty-five-*a* (2), one hundred fifty-five-*a* (3), one hundred fifty-five-*a* (4), one hundred fifty-five-*a* (5), one hundred fifty-five-*a* (6), one hundred fifty-five-*a* (7), one hundred fifty-five-*a* (8), one hundred fifty-five-*a* (9), one hundred fifty-five-*a* (10), one hundred fifty-five-*a* (11), one hundred fifty-five-*a* (12), one hundred fifty-five-*a* (13), and one hundred fifty-five-*a* (14), of chapter forty-five of the West Virginia code of one thousand nine hundred and sixteen, relating to education and to add to said chapter forty-five, sections one hundred thirty-five, one hundred thirty-six, one hundred thirty-six-*a* and one hundred thirty-six-*b*, and to repeal sections nineteen, twenty, twenty-one and twenty-two of chapter fifteen-*m*. of the West Virginia code of one thousand nine hundred and sixteen, relating to the state board of regents.

4

[H. B. No. 231]

*Be it enacted by the Legislature of West Virginia:*

That sections one hundred fifty-five-*a* (1), one hundred fifty-five-*a* (2), one hundred fifty-five-*a* (3), one hundred fifty-five-*a* (4), one hundred fifty-five-*a* (5), one hundred fifty-five-*a* (6), one hundred fifty-five-*a* (7), one hundred fifty-five-*a* (8), one hundred fifty-five-*a* (9), one hundred fifty-five-*a* (10), one hundred fifty-five-*a* (11), one hundred fifty-five-*a* (12), one hundred fifty-five-*a* (13), and one hundred fifty-five-*a* (14), of chapter forty-five, and sections nineteen, twenty, twenty-one and twenty-two of chapter fifteen-*m*, of the West Virginia code of one thousand nine hundred and sixteen, be repealed, and sections twenty-eight, fifty-nine, eighty-seven, one hundred thirty, one hundred thirty-one, one hundred thirty-two, one hundred thirty-three and one hundred thirty-four, of chapter forty-five of the West Virginia code of one thousand nine hundred and sixteen, be amended and re-enacted, and add thereto sections one hundred thirty-five, one hundred thirty-six, one hundred thirty-six-*a* and one hundred thirty-six-*b*, so as to read as follows:

Section 28. *Teachers' Salaries.* Boards of education shall,  
2 at their first meeting for each school year, determine the number  
3 of teachers necessary to be employed, and fix the rate of salary  
4 that shall be paid said teachers. In determining the salaries, they  
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5 shall have regard to the grade of teachers' certificates, fixing to  
6 each grade the salary that shall be paid to teachers of said grade  
7 as follows: Teachers holding first grade certificates, shall be paid  
8 not less than seventy-five dollars per month; those holding second  
9 grade certificates, not less than sixty dollars per month; and those  
10 holding third grade certificates, not less than forty-five dollars per  
11 month; and in the making of teachers' contracts, the rate of salary  
12 so fixed by the board shall in no case be increased or diminished;  
13 *provided*, that in the district having a school or schools employing  
14 three or more teachers in the same building, the board may fix a  
15 higher rate of salary to be paid to the principal of such schools.  
16 But such salary shall not be more than twenty per cent in excess of  
17 the salaries paid first grade teachers throughout the districts.

Sec. 59. *Holidays.* In contracts with teachers, it shall be  
2 understood that twenty days actual teaching shall constitute a  
3 school month, and that school is not to be kept in operation for  
4 instruction on Saturday or on any holiday.

*Amending Section 61 of Present Law.*

Sec. 61. The trustees shall cause the schoolhouse under their  
2 charge and everything pertaining thereto to be kept in good order,  
3 and to this end may purchase fuel, water-buckets, brooms, coal-  
6 [H. B. No. 231  
4 hods, shovels, pokers, stovepipe, crayons, erasers, dippers and  
5 wash basins for use in the school room, and make such repairs to  
6 windows, doors, benches, desks, floors, walls, ceilings and roofs,  
7 as may be necessary to make the house comfortable. The trustees  
8 shall also see that the school house is swept and that fires, when  
9 necessary, are made and kept therein by the teacher, if the teacher  
10 so desires, for which sweeping and fire building the teacher or  
11 other person doing the work shall be allowed one dollar per week,  
12 payable at the end of each month, or at the end of the term, upon  
13 a proper certificate from the trustees, out of the building fund of  
14 the district.

Sec. 87. *Elementary Certificates.* Elementary certificates  
2 shall be issued to all applicants who pass a satisfactory examina-  
3 tion in orthography, reading, penmanship, arithmetic, English

4 grammar and language, physiology and hygiene, United States  
5 and West Virginia history, general and West Virginia geography,  
6 civil government, theory and art of teaching, and agriculture.  
7 Such certificates shall show the grade or proficiency of the ap-  
8 plicant in each subject in which he is examined, and shall be  
9 classified according to the following scale; first grade certificates,  
10 valid for a period of five years, shall be issued to all applicants  
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11 who attain a general average of ninety per cent on a scale of one  
12 hundred, with no subject below seventy-five per cent; second grade  
13 certificates, valid for three years, shall be issued to all applicants  
14 who attain a general average of eighty per cent, with no subject  
15 below sixty-eight per cent; third grade certificates, valid for one  
16 year, shall be issued to all applicants who maintain an average of  
17 seventy per cent, with no subject below sixty per cent; *provided*,  
18 that the third grade certificate shall not be issued to the same  
19 person for more than two years.

20 First grade elementary certificates shall be valid in all of the  
21 schools of the state; second grade, and third grade certificates shall  
22 be valid in all of the grades of the elementary schools; *provided*,  
23 that no person shall be employed as principal of any school who  
24 does not hold a first grade certificate or its equivalent. Any first  
25 grade elementary certificate shall be renewable upon the recom-  
26 mendation of the county superintendent as follows:

27 At the end of the first five year period, it shall be renewable  
28 on condition that the holder has taught or has been actively en-  
29 gaged in public school work for three years during the five years  
30 previous, and that he pass a satisfactory examination on two of  
31 the books of the state reading circle course, to be designated by the

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32 state superintendent of schools, or has done satisfactory work for  
33 a period of six weeks in a recognized state normal school or in  
34 some other school of equal rank, or has done other work of equal  
35 value. The state superintendent of schools shall determine what  
36 schools shall be recognized and the nature of the work which shall  
37 be accepted in carrying out the provisions of this section.

38 At the termination of the first renewal period, or second re-  
39 newal period if the first has passed, the holder of such certificate  
40 shall be eligible to receive a first grade elementary certificate valid  
41 for life, without further examination, provided the holder thereof  
42 has taught or been otherwise actively engaged in public school

43 work for not less than three years of the last five, and has main-  
44 tained an active interest in school work; *provided*, that in all  
45 cases of renewal of elementary certificates, one full year's work  
46 in a standard college or normal school or other school approved  
47 by the state board of education, done during the life of the cer-  
48 tificate, or within the year immediately following its expiration,  
49 or service for a like period in the army or navy of the United  
50 States, shall be considered the equivalent of one year's teaching  
51 on such certificate.

Sec. 118. *Salary.* The county superintendent shall receive  
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2 for his services an annual compensation as follows:

3 In counties employing less than one hundred teachers  
4 one thousand dollars; and in counties employing more than one  
5 hundred teachers he shall receive three dollars for each additional  
6 teacher employed. The county superintendent shall not teach in  
7 any school, public or private, or engage in any other occupation  
8 while the schools of his county are in session and should any such  
9 superintendent violate this provision he shall immediately there-  
10 upon forfeit his office and cease to be entitled to any further  
11 remuneration. The number of teachers employed on the first day  
12 of October of each year shall be taken as the basis for determining  
13 the salary for that year.

*State Board of Education.*

Sec. 130. *How Constituted; Vacancies; How Filled.* There  
2 is hereby created a state board of education which shall be a cor-  
3 poration and as such may contract and be contracted with, plead  
4 and be impleaded, sue and be sued, and have and use a common  
5 seal.

6 Said board shall consist of seven members of whom one shall  
7 be the state superintendent of schools *ex-officio*, and the other six  
8 members shall be appointed by the governor, as herein provided.

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9 On or before the first day of May, one thousand nine hundred and  
10 nineteen, the governor shall, by and with the consent of the Sen-  
11 ate, appoint six members of the board for the following terms, to  
12 commence on the first day of July next after their appointment.  
13 One for one year, one for two years, one for three years, one for  
14 four years, one for five years, and one for six years. Thereafter  
15 one member of the board shall be appointed by the governor on or  
16 before the first day of May in every year for a term of six years.



2 the first day of July, one thousand nine hundred and nineteen, and  
 3 at its first regular meeting in every year thereafter, the state board  
 4 of education shall elect one of its members as president and one  
 5 as vice-president of the board. The state superintendent of schools  
 6 shall be the chief executive officer of the state board of education.  
 7 Said board shall appoint a secretary and fix his salary, the same to  
 8 be paid out of the general school fund upon warrants drawn by  
 9 the state superintendent of schools.

Sec. 133. *Powers and Duties.* On and after the first day of  
 2 July, one thousand nine hundred and nineteen, the state board of  
 3 education created in section four of this act shall have the general  
 4 control and management of the educational affairs of the West  
 5 Virginia university, the state normal schools, the Montgomery  
 6 state trades school, the Keyser state vocational school, the West  
 7 Virginia collegiate institute, the Bluefield colored institute, the  
 8 West Virginia schools for the deaf and blind, and of any other  
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9 state educational institution which may hereafter be created by  
 10 law; and the statutory provisions applicable to the government  
 11 and maintenance of the schools or institutions named in this  
 12 section shall continue in full force except as may be provided  
 13 otherwise by this act or by succeeding acts of the legislature. Said  
 14 board shall exercise such authority and perform such duties as  
 15 may have been delegated heretofore to the state board of regents,  
 16 to the state board of education as now constituted, to the state  
 17 school book commission, and to the state vocational board, subject,  
 18 however, to the provisions of this act and of succeeding acts of  
 19 the legislature. The state board of education shall employ the  
 20 president or principal and the professors, teachers and other  
 21 employees of each of the institutions named in this section, and  
 22 shall fix the yearly or monthly salary to be paid to each person so  
 23 employed; *provided, however,* that the aggregate amount of the  
 24 salaries to be paid to all persons appointed to each such institu-  
 25 tion shall not exceed the amount or amounts appropriated by  
 26 the legislature or otherwise provided for such purpose.

Sec. 134. *Training of Teachers.* The training of teachers  
 2 in the state shall be under the general direction and control of  
 3 the state board of education, which shall through the state super-  
 4 intendent of schools, exercise supervisory control over the state  
 5 normal schools and other institutions named in section one hundred

6 thirty five of this act as may be charged with the duty of training  
7 teachers and over normal school training high schools. Said board  
8 shall also exercise supervisory control over the teacher training  
9 departments of all private or denominational schools which offer  
10 courses for the training of teachers, or which maintain classes  
11 or departments therefor.

12 The state board of education shall regulate the conferring of  
13 degree and the granting of diplomas in all the educational institu-  
14 tions in the state, whether supported by public or private funds;  
15 and no such institution within the state shall grant any diploma  
16 or confer any academic, collegiate, professional or university de-  
17 gree without having first obtained the assent in writing of the  
18 state board of education; and also the approval of said board of  
19 the conditions which such diploma or degree is granted. It is  
20 *provided*, however, that nothing contained herein shall infringe  
21 upon the rights granted to any such institution by charter given  
22 according to law previous to the passage of this act. It is pro-  
23 vided further, that hereafter no charter or other instrument con-  
24 taining the right to confer degrees or to issue diplomas can be  
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25 granted by the state of West Virginia, to any institution, or other  
26 association or organization, either within or without the state,  
27 until the condition of conferring such degrees or of issuing such  
28 diplomas have first been approved in writing by the state board  
29 of education.

Sec. 135. *Shall Prescribe Minimum Standards for Courses*  
2 *of Study.* The state board of education shall prescribe minimum  
3 standards of the courses of study to be offered in elementary  
4 schools, high schools, vocational schools, and in all other kinds,  
5 grades, and classes of schools, or departments thereof, which may  
6 now or hereafter be maintained in the state in whole or in part  
7 from any state fund or funds; *provided*, however, that the courses  
8 of study in the state educational institutions and in independent  
9 school districts, unless otherwise provided by law, shall be pre-  
10 pared by the faculties, teachers, or other constituted authority  
11 thereof.

Sec. 136. *Shall adopt Text Books.* The state board of educa-  
2 tion shall adopt text-books for uniform and exclusive use in the  
3 public schools of the state, except as hereinafter provided, such  
4 adoptions to be made subject to the following restrictions and  
5 provisions:



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6 (a) By written request or otherwise the state board of educa-  
7 tion shall ask various publishers of text-books in the United States  
8 to submit samples and prices of text-books on all subjects required  
9 to be taught in the schools of the state. All bids or proposals  
10 shall be under seal, and each bidder shall deposit with the state  
11 treasurer such sum of money as said state board of education shall  
12 designate, such deposit to be not less than one thousand dollars  
13 (\$1,000) nor more than three thousand dollars (\$3,000); and  
14 said deposit shall be forfeited to the general school fund, if such  
15 bidder shall fail or refuse to make and execute such contract and  
16 bond as are herein required in case of the acceptance of all or a  
17 part of his bid, and otherwise shall be returned to said bidders  
18 after contracts have been made.

19 (b) All bids shall be opened by the state board of education  
20 in executive session. After considering the subject matter, print-  
21 ing, binding, general suitableness and prices of books submitted,  
22 said board shall on or before the first Tuesday in May, one thou-  
23 sand nine hundred and twenty-two, and every fifth year thereafter  
24 adopt one book, or one series of books, and only one, for uniform  
25 and exclusive use in the free schools of this state, except in classi-  
26 fied high schools and in towns and cities which have a population  
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27 of thirty-five hundred or over. No book or books shall be changed  
28 at the expiration of any five-year contract upon fewer than six  
29 affirmative votes. When selections and adoptions of books have  
30 been properly made, it shall be the duty of the state board of educa-  
31 tion to execute contracts therefor with the publishers thereof for a  
32 period of five years, beginning July first following, each publisher  
33 being required to enter into bond of not less than ten thousand  
34 dollars (\$10,000) to be approved by the state board of public  
35 works. Such contracts shall be prepared by the attorney general  
36 in accordance with the terms and provisions of this act, and shall  
37 be executed in duplicate, one copy held by the contractors and one  
38 by the state superintendent of schools. Should any successful  
39 bidder fail to contract, or, if for any cause any book or books  
40 adopted cannot be secured, the commission shall proceed at once  
41 to the selection and adoption of other books in lieu thereof. The  
42 state of West Virginia shall not be liable in any manner on account  
43 of any contract made in pursuance of the provisions of this sec-  
44 tion. It is expressly provided, however, that nothing contained



84 not displace the adopted readers, nor the use of more advanced  
85 books in such schools as may be ready for the same.

Sec. 136-a. *Gifts and Bribes.* Any member of the state  
2 board of education who shall receive, solicit or accept any gift,  
3 present or thing of value to influence him in his vote for the  
20 [H. B. No. 231  
4 adoption of books, or any person who shall either directly or in-  
5 directly give or offer to give any such gift, present or thing of  
6 value to any member of said state board of education to influence  
7 him in voting for the adoption of books shall be guilty of a felony,  
8 and upon conviction thereof shall be punished by confinement in  
9 the penitentiary of this state not less than one year nor more than  
10 three years.

Sec. 136-b. *Boards Abolished.* The state board of regents,  
2 the state board of education, the state school book commission, and  
3 the state vocational board as now respectively constituted by law  
4 are hereby abolished, effective at midnight of the thirtieth day of  
5 June, one thousand nine hundred and nineteen.

Sec. 163. *District Supervision.* The board of education of  
2 any district may employ for the term fixed for the schools of the  
3 district, a district supervisor who shall give his entire time to the  
4 careful supervision of the schools of his district. No person shall  
5 be qualified for the position of district supervisor who does not  
6 hold a supervisor's certificate. Such district supervisor shall have  
7 such authority and control over the schools of their district as  
8 shall be delegated to them by the board of education. They shall  
9 be paid such salary as the board may determine, out of the teach-  
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10 ers' fund of the district, and they shall make such report as the  
11 board of education, county superintendent or state superintendent  
12 may require.

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## House Bill No. 188

[By MR. McCLINTIC.]

Introduced January 27, 1919. Referred to the Committee on the  
Judiciary; January 30, reported back with the recommendation that  
it do pass; January 31, coming in regular order for consideration, was  
read a first time and ordered to its second reading.

A BILL concerning notaries public who are stockholders, directors, officers, or employees of banks or other corporations.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be lawful for any notary public who is a stockholder, director, officer or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by such corporation, or to administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or to protest for non-acceptance or non-payment bills of exchange, drafts, checks, notes and other negotiable instruments, which may be owned or held for collection by such corporation. *Provided*, it shall be unlawful for any notary public to take the acknowledgment of an instrument by or to a bank or other corporation of which he is a stockholder, director, officer, or employee where such notary is a party to such instrument, either individually or as a representative of such corporation, or to protest any negotiable instrument owned or held for collection by such corporation, where such notary is individually a party to such instrument.

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## House Bill No. 167

[By Mr. Cox.]

Introduced January 24, 1919. Referred to the Committee on the Judiciary; January 30, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL prohibiting the wearing by any person not entitled thereto of an emblem of any secret order or organization and prescribing the penalties for such violations.

*Be it enacted by the Legislature of West Virginia:*

That any person wearing a badge or emblem after having been suspended or expelled for non-payment of dues or otherwise from any secret order or organization, or any person not entitled to wear such badge or emblem of any organization or secret order working under the laws of the state of West Virginia, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five (\$5.) dollars nor more than twenty (\$20.) dollars for such offense.

# House Bill No. 53

[BY MR. HENDRICKS.]

Introduced January 14, 1919. Referred to the Committee on Education. February 8, reported back with the recommendation that it do pass. February 15, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to provide for the education and maintenance of indigent children.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Whenever it shall appear to the county court of 2 any county that there is any child living in such county, between 3 the ages of five and fourteen years, who is unable to attend the 4 public schools of such county by reason of its own indigency or the 5 indigency of its parents or any one having the legal custody of 6 such child, it shall be the duty of such court to provide for the 7 education and maintenance of such child as hereinafter provided.

Sec. 2. It shall be the duty of the parent or legal custodian 2 of any child between the ages mentioned in the preceding section, 3 who is unable to send such child to the public schools of the 4 county in which he resides, by reason of the indigency of such 5 parent or legal custodian, to apply to the county court of such 6 county for the education and maintenance of such child. And it 7 shall be the duty of such parent or legal custodian to show to such 8 court by satisfactory evidence that he is a citizen of the state of 9 West Virginia, that he has been a resident of the state for at least,

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10 two years and of the said county at least six months, and that he is 11 unable to properly maintain such child and send it to the public 12 schools.

Sec. 3. The sum to be allowed by the county court for the 2 education and maintenance of any one child, under the provisions 3 of this chapter, shall not be less than two nor more than five dol- 4 lars per week, and shall be paid weekly or monthly at the discre- 5 tion of the court, to the parent or legal custodian of any such 6 child, if he be a suitable person; if not, then to some responsible 7 person who will undertake to apply such sums for the purposes 8 herein provided.

Sec. 4. It shall be the duty of the county court of each 2 county to levy annually a sum sufficient to meet the expenses of 3 administering this act, unless otherwise provided for, and the

4 sums so collected shall be known as the indigent children's edu-  
5 tional fund, and shall be paid out by the sheriff of each county  
6 upon warrants drawn by said county court.

Sec. 5. From any order or action of the county court in  
2 refusing any application for the education and maintenance of  
3 any child in whose behalf such application is made, or in allow-  
4 ing a sum insufficient for such purpose, an appeal shall lie to  
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5 the circuit court of such county, and it shall be the duty of the  
6 clerk of the county court to transmit, without delay and without  
7 the prepayment of any fees therefor, to the circuit court all orders,  
8 records and papers filed or presented in such cause, and the cir-  
9 cuit court may proceed to hear the same upon said record, or may  
10 receive such additional evidence as may be offered in support of  
11 such application. The circuit court or the county court shall,  
12 when requested so to do by any applicant under this chapter, ap-  
13 point some competent member of the bar to prosecute such ap-  
14 plication, for which services he shall receive not to exceed the  
15 sum of five dollars, to be paid by warranty drawn upon the sheriff  
16 of such county.

Sec. 6. The circuit court shall have jurisdiction by man-  
2 damus to compel the performance by the county court of any of  
3 the duties placed upon them by this act.

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## House Bill No. 143

[By MR. CUPPETT.]

Introduced January 22, 1919. Referred to the Committee on the  
Judiciary; January 29, reported back with the recommendation that  
it do pass; January 31, coming up in regular order for consideration,  
was read a first time and ordered to its second reading.

A BILL to authorize the creation of a commission for the purpose  
of reporting to the legislature on the question of compiling and  
keeping records of the enlistment and service of citizens of West  
Virginia in any branch of the naval or military forces of the  
United States or countries of the Allies during the world war or  
in any charitable, humane or relief organization connected with  
the operations of such forces, and of providing and erecting tab-  
lets, or memorial buildings as memorials to those of them who  
have died in such service or in any such organization.

*Be it enacted by the Legislature of West Virginia:*

That, in order to render just tribute to citizens of West Virginia who have served in any branch of the naval or military forces of the United States or those of the Allies during the world war or in any charitable, humane or relief organization connected with the operations of such forces, and to perpetuate the memory of those who have died in such service or in any such organization, whether on the field of battle or elsewhere, the governor of this state hereby is authorized, empowered and directed to select such number of representative citizens of West Virginia as he shall think advisable, who, with himself, shall

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constitute a commission for the purposes hereinafter declared. The members of such commission shall serve and discharge their duties without cost or charge to the state, and the governor shall be the chairman and have direction thereof.

Said commission shall take under consideration and report in writing to the next session of the legislature on the following matters and things:

What records should be compiled, kept and preserved in each county of the state of the enlistment and service of citizens of such county in any branch of the naval or military forces of the United States or those of the Allies during the world war or in any charitable, humane or relief organization connected with the operations of such forces.

What tablets, monuments or memorial buildings have been or should be erected or provided in each county as a memorial to the citizens therefrom who have died in such service or in any such organization:

What records have been or should be compiled, kept and preserved by the state of West Virginia of the enlistment and service of its citizens in any branch of such naval or military forces or in any such organization.

What tablets, monuments or memorial buildings have been or should be erected or provided by the state of West Virginia as a memorial to H. B. No. 143]

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its citizens who have died in such service or in any such organization.

Said commission shall include in its report any and all matters and things which it may think pertinent to any of the foregoing inquires.

## House Bill No. 173

[BY MR. LANTZ.]

Introduced January 24, 1919. Referred to the Committee on Roads and Internal Navigation. February 15, coming up out of its regular order, was read a first time and ordered to its second reading.

A BILL to amend and re-enact chapter sixty-six of the acts of West Virginia legislature, one thousand nine hundred and seventeen, by adding thereto section fifty-six-a requiring patrolmen to account for road materials, tools and equipment belonging to other districts.

*Be it enacted by the Legislature of West Virginia:*

That chapter forty-three of Barnes' code of West Virginia, as amended by chapter sixty-six of the acts of one thousand nine hundred and seventeen be and the same is hereby amended by adding thereto section fifty-six-a as follows:

Section 56-a. Every patrolman shall, between the first day 2 of April and the first day of July of each year, make a complete 3 inventory of all road materials, tools and implements belonging to 4 said district, making diligent effort to locate and secure posses- 5 sion or control of same, and file a copy of such inventory with the 6 clerk of the county court of his county not later than the first 7 day of the next regular session of the court following the first 8 day of July of each year. He also shall file a report with the 9 clerk of the county court every three months, and oftener if re- 4 [H. B. No. 173 10 quired to do so by the court or the county road engineer, showing 11 what materials, tools and implements have been purchased or re- 12 ceived by him during the interim, what if any have been lost, brok- 13 en or discarded, and the number, amount and kind on hands, their 14 condition at the time and where located.

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## House Bill No. 174

[BY MR. MOORE.]

Introduced January 25, 1919. Referred to the Committee on Taxation and Finance. January 27, reported back with the recommendation that it do pass. January 28, coming up in regular order for consideration, was read a first time and ordered to its second reading.



A BILL to amend and re-enact sections one, two-a, two-b, ~~six~~, nine and sixteen of chapter thirty-three of the code of West Virginia, relating to taxes on inheritances, devises, distributive shares and legacies.

*Be it enacted by the Legislature of West Virginia:*

1. That sections one, two-a, two-b, six, nine and sixteen of chapter thirty-three of the code of West Virginia, relating to taxes on inheritances, devises, distributive shares and legacies, be amended and re-enacted so as to read as follows:

Section 1. A tax, payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property, or interest therein, real, personal, or mixed, of five hundred dollars or more, if such transfer be

(a) by will or by the laws of this state regulating descents and distributions from any person who is a resident of the state at the time of his death and who shall die seized or possessed of the property;

(b) by will or by laws regulating descents and distributions

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of property within the state, or within its jurisdiction, and the decedent was a non-resident of the state at the time of his death;

(c) by a resident, or be of property within the state, or within its jurisdiction, by a non-resident, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, bargainor or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale, or gift, made within two years prior to the death of the grantor, vendor, or donor, of value of five hundred dollars, or in excess thereof, at the time of such transfer in the nature of final disposition, or distribution of an estate, and without adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this chapter. This provision shall apply to all transfers heretofore made within the period of two years from the time this act becomes effective;

(d) If any person shall transfer any property which he owns or shall cause any property, to which he is absolutely entitled, to be transferred to, or vested in, himself and any other person jointly so that the title therein, or in some part thereof, vest no survivorship in such other person, a transfer shall be deemed to occur and

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31 to be taxable under the provisions of this act upon vesting of  
32 such title.

33 (e) Whenever a person shall exercise by will a power of ap-  
34 pointment, when made, shall be deemed a transfer taxable under  
35 the provisions hereof.

Sec. 2a. The foregoing rates in section two are, for con-  
2 venience, termed primary rates. When the market value of any  
3 such property exceeds twenty-five thousand dollars to the persons  
4 mentioned in paragraph (a), of section two, of this chapter, the  
5 rate of tax upon such excess shall be as follows:

6 (a) Upon all in excess of twenty-five thousand dollars up to  
7 fifty thousand dollars, two times the primary rate.

8 (b) Upon all in excess of fifty thousand dollars up to one  
9 hundred thousand dollars, three and one-half times the primary  
10 rate.

11 (c) Upon all in excess of one hundred thousand dollars up  
12 to five hundred thousand dollars, five times the primary rate.

13 (d) Upon all in excess of five hundred thousand dollars, six  
14 times the primary rate.

15 To persons in paragraphs (b) and (c), of section two, of this  
16 chapter,

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17 (e) Upon all in excess of twenty-five thousand dollars up to  
18 fifty thousand dollars, one and one-half times the primary rate.

19 (f) Upon all in excess of fifty thousand dollars up to one  
20 hundred thousand dollars, two times the primary rate.

21 (g) Upon all in excess of one hundred thousand dollars up  
22 to five hundred thousand dollars, two and one-half times the  
23 primary rate.

24 (h) Upon all in excess of five hundred thousand dollars,  
25 three times the primary rate.

Sec. 2b. The following exemptions from taxes under this  
2 chapter are hereby allowed:

3 (a) All property transferred to a person, or corporation, in  
4 trust, or used solely for educational, literary, scientific, religious,  
5 or charitable purposes, or to the state, or to any county, or munic-  
6 ipal corporation thereof, for public purposes, provided the prop-  
7 erty so transferred for purposes herein mentioned is used ex-  
8 clusively in this state, shall be exempt from all taxes under this  
9 chapter.

10 (b) Property of the market value of fifteen thousand dollars

11 to a widow of a deceased person, and ten thousand dollars trans-  
12 ferred to each of the other persons described in sub-division (a),  
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13 of section two, shall be exempt from all taxes under this chapter.  
14 A tax upon the excess of the exemptions up to twenty-five thou-  
15 sand dollars shall be computed at the primary rates.

16 (c) The transfer of all property belonging to any estate of  
17 the total value of five hundred dollars, or less, is exempted from  
18 the provisions of this chapter and the taxes hereunder.

Sec. 6. A transfer of personal property of a resident of the  
2 state which is not therein or within the jurisdiction thereof, at the  
3 time of his death, shall not be taxable under the provisions of this  
4 act, if such transfer or the property be legally subject in another  
5 state or country to a tax of like character and amount to that  
6 hereby imposed, and if such tax be actually paid or guaranteed or  
7 secured, in accordance with the law in such other state or country,  
8 if legally subject in another state or country to a tax of like char-  
9 acter, but of less amount than that hereby imposed, and such tax  
10 be actually paid or guaranteed or secured, as aforesaid, the trans-  
11 fer of such property shall be taxable under this act to the extent  
12 of the difference between the tax thus actually paid, guaranteed or  
13 secured, and the amount for which such transfer would otherwise  
14 be liable hereunder, or with the jurisdiction thereof.

15 The provisions of this act shall apply to the transfer of the  
16 following property belonging to deceased persons, non-residents  
17 of this state, which shall pass by will or inheritance under the law  
18 of any other state or country, and such property shall be subject to  
19 the tax imposed by this chapter, to-wit:

20 (a) The transfer of all real estate and tangible personal  
21 property, including money on deposit in this state;

22 (b) The transfer of all intangible personal property, includ-  
23 ing bonds, securities and choses in action kept within this state  
23-a for investment, safe keeping, or otherwise;

24 (c) The transfer of shares of capital stock of all corpora-  
25 tions organized and existing under the laws of this state, the cer-  
26 tificates of which shares of stock shall be within or without this  
27 state.

28 The transfer of property mentioned in sub-divisions (a) and  
29 (b) and the transfer of shares of stock mentioned in sub-division  
29 (c) of this section, after the decease of the person owning the  
30 same, shall not be legal until the inheritance tax, or transfer tax,

31 has been paid into the state treasury and certificate of release to  
32 that effect executed by the state tax commissioner. No corporation  
33 organized or existing under the laws of this state, bank, or trust  
34 company, having money on deposit, or other person having in his  
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35 possession property mentioned in said sub-divisions (a), (b) and  
36 (c), shall make transfer thereof, unless notice of the time of such  
37 intended transfer is served upon the state tax commissioner at least  
38 fifteen days prior to such transfer, or until the state tax commis-  
39 sioner shall consent, in writing, thereto. Any such corporation,  
40 bank, or trust company, or other person having in his possession  
41 such property, before the inheritance tax is paid, or before official  
42 consent of the state tax commissioner thereto is obtained, shall be  
43 liable to the state of West Virginia for such amount of inheritance  
44 tax as may be collectible upon the transfer, together with any in-  
45 terest that may accrue thereon and in addition thereto, a penalty  
46 of five hundred dollars, which liability for such tax and interest  
47 and penalty may be enforced by a proper action in the name of the  
48 state of West Virginia.

49 Where a deceased person was a non-resident at the time of  
50 death, and owned property within this state, or within its juris-  
51 diction, and also in other states, or countries, the exemptions pro-  
52 vided for in section two-b shall be pro-rated according to the value  
53 of the property in this state, or within its jurisdiction, and the  
54 property in other states, or countries, and the person whose duty  
55 it is under this chapter to file with the state tax commissioner a

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56 report of the value and distribution of the property taxable here-  
57 under, shall also include in said report the total value of the prop-  
58 erty owned by the deceased at the time of his death.

Sec. 9. In case of such suspension, the tax shall be payable  
2 at the time of the expiration of the suspension. In all other cases,  
3 the tax shall be paid within ninety days after the assessment is  
4 made and certified by the state tax commissioner. If the tax is  
5 not paid at the expiration of ninety days, there shall be a penalty  
6 of ten per centum of the amount of taxes added thereto; except  
7 for good cause shown, the state tax commissioner is hereby au-  
8 thorized to relieve the penalty provided herein. Interest at the  
9 rate of ten per centum per annum shall be charged and collected  
10 upon all taxes and penalties imposed after the expiration of ninety  
11 days from the date of assessment.

Sec. 16. The state tax commissioner shall appoint, and may, at his pleasure, remove, one competent person to act as appraiser of property subject to the transfer, or inheritance, tax under this chapter. It shall be the duty of said appraiser, and he shall have the power, to appraise and fix a value upon all property liable to the tax provided in this chapter, which shall be the market value of the property appraised. Such appraiser shall give notice to the H. B. No. 174]

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8 executor, administrator, trustee, or other person, whose duty it is under this chapter to pay the tax collectible under the same, and mailing such notice to such person at his last known post office address, of the time and place when and where he will appraise the property shall be sufficient. He shall at such time and place appraise the property at the value herein prescribed, and for the purpose of obtaining information touching the value of property to be appraised, said appraiser is authorized to issue subpoenas, to compel attendance of witnesses before him, to administer oaths and to take evidence of such witnesses under oath concerning such property and the value thereof. He shall make report of his work and of the value fixed by him, in writing, to the state tax commissioner together with the depositions of the witnesses examined and such other facts in relation thereto and to said matter, as the state tax commissioner may require. The value of the property appraised, except as hereinafter provided in this section, shall be the value upon which the inheritance tax under this chapter shall be collected; but before the assessment of the tax, as provided in this chapter, shall be made, the value so fixed by the appraiser shall be approved by the state tax commissioner, and when the same is so approved, it shall be final except the estate, through its

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proper representatives, or owners, shall have the right of appeal to the circuit court of the county wherein the property, or a majority thereof in this state, is located. The circuit court of Kanawha county, West Virginia, is also hereby given jurisdiction to try any and all matters arising under this chapter. The state tax commissioner shall give notice in writing to the executor, administrator, or other person whose duty it is to pay the taxes under this chapter, by mailing same to his last known post office address, of the value fixed and approved by him. If the estate desires to take an appeal from the value fixed by the appraiser, and approved by the state tax commissioner, it may have the evi-

dence taken at the hearing of the appraisal before the appraiser transcribed and certified by him, and when allowed by the court, or judge in vacation, such appeal may be determined from the evidence so certified. If, upon hearing of such appeal, it is determined that the appraiser fixed too high, or too low, value, or made other error, the court shall by an order entered of record, correct the error and fix a proper value thereon. A copy of the order entered by the circuit court shall be certified by the clerk thereof to the state tax commissioner and the state tax commissioner shall fix the inheritance tax upon the value fixed by the circuit court.

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No appeal shall be granted after the expiration of thirty days from the date of mailing notice of the value fixed in this section. Before any hearing is had by the circuit court, the state tax commissioner shall be given at least ten days' notice, and he shall attend in person, or by attorney, and defend the interest of the state. The appraiser shall receive for his compensation not to exceed four thousand dollars annually, which shall be fixed by the state tax commissioner and paid out of the taxes collected under this chapter. He shall, in addition thereto, be allowed his actual necessary traveling expenses incurred while engaged in the performance of his duties hereunder. He shall also have necessary stenographic and clerical help, the same to be employed and paid by the state tax commissioner out of taxes collected under this chapter.

It is further provided that should any provision of this chapter be held to be in violation of the constitution of West Virginia, or of the United States, it shall not in any way invalidate or affect any other provision of the same.

2. All acts and parts of acts coming within the purview of this act and inconsistent herewith are hereby repealed.

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## House Bill No. 304

[By MR. McCLAREN (by request).]

Introduced February 17, 1919. Reference to the committee disposed with. February 18, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL for the commitment to a state hospital for the insane, persons so far addicted to the use of opium or cocaine, or any derivative of either, that his will to resist the desire of such drugs is substantially destroyed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That any person so far addicted to the use of opium or cocaine, or any derivative of either, that his will to resist the desire of such drug is substantially destroyed, shall be proceeded against and committed to and detained in a state hospital for insane, as if such person were insane. It shall be the duty of every physician treating any person for addiction to any of the aforementioned drugs to report his name and address to the clerk of the county court, wherein such physician has his office within ten days from the beginning of treatment; and any failure so to do shall be a misdemeanor punishable by fine of not less than \$100.00, nor more than \$500.00, or imprisonment for not more than three months, or both. It shall be the duty of the county health officer to institute a complaint before the county court

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against any person so reported within fifteen days from the time a report of his treatment is filed with the clerk, as hereinbefore provided; and for each failure so to do, the county court shall deduct \$25.00 from the salary due the health officer, and in default thereof, each member of the county court shall personally be liable in said sum.

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## House Bill No. 84

[By MR. PETTINGEW.]

Introduced January 17, 1919. Referred to the Committee on Counties, Districts and Municipal Corporations; January 17, referred back to the Committee on the Judiciary; January 29, reported back with recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to provide for the payment of any judgment order or decree for the payment of money rendered against any municipal corporation.

*Be it enacted by the Legislature of West Virginia:*

Section 1. When any judgment, order or decree for the payment of money is rendered by any circuit or other court of competent jurisdiction against any municipal corporation in this state and such judgment, order or decree for the payment of money, is presented to the proper officers of such municipal corporation for payment, if payment thereof be refused, or if the funds at the disposal of such municipal corporation are insufficient to pay off and discharge such judgment, order or decree, the holder of such judgment, order or decree for the payment of money, may apply by petition to the circuit court of the county in which such municipal corporation is situated, either in term time or vacation, for a mandamus directed to the proper officials of said municipal corporation to pay such judgment, order or decree for the payment of money, or to provide for the payment of such money by and out of the next municipal levy to be made in such municipal or cor-

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poration, or show sufficient cause why they should not be compelled to do so; which writ shall be returnable as the court or judge awarding the same may order. If the current levy for municipal purposes in any municipal corporation be insufficient to provide for the payment of any sum of money ordered to be paid under this act, then such municipal corporation shall have authority to lay a special levy, in addition to all other levies authorized by law, sufficient to provide for the payment of any money decreed to be paid under this act, and if the municipal authority fail or refuse to lay a sufficient levy to pay any money ordered to be paid under this act, the person to whom such money is due may apply by petition to the circuit court or judge thereof in vacation for a mandamus directed to the proper municipal officers to compel the laying of the levy herein provided for, or shall show cause why such levy should not be laid; such writ shall be returnable as the Court or judge awarding the same may direct.

Sec. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

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## House Bill No. 184

[BY MR. GROVE.]

Introduced January 27, 1919. Referred to the Committee on Immigration and Agriculture; January 30, reported back with the rec-



ommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact sections three and seventeen and eighteen of the live stock sanitation law, chapter thirteen, acts one thousand nine hundred and fifteen.

*Be it enacted by the Legislature of West Virginia:*

That sections three and seventeen and eighteen of chapter thirteen, acts one thousand nine hundred and fifteen be amended and reenacted to read as follows:

Section 3. The commissioner may employ such competent 2 and experienced veterinarian as may be necessary from time to 3 time to assist him in discharging the duties imposed upon him 4 by this act; such veterinarians shall be graduates of veterinary colleges recognized by the American veterinary medical association, 5 and to be hereafter known as consulting veterinarians. The commissioner shall have general charge of the enforcement of the provisions of this act, and shall collect and disseminate information 6 and statistics in relation to the diseases of domestic animals, the 7 proper care and sanitation of stables and other buildings used 8 for stabling of farm animals for the purpose of preventing the 9 existence and spread of infectious and contagious diseases. For

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13 any services rendered under the provisions of this act, the consulting veterinarians shall receive a per diem, not exceeding seven 14 dollars and actual expenses, to be determined by the commissioner while engaged in carrying out the directions of the commissioner, which expenses shall be paid out of the current appropriation made for the enforcement of this act.

Sec. 17. The commissioner or his agent or the inspectors of 2 the United States bureau of animal industry, shall possess authority to test with tuberculin any bovine animal kept within the 3 state, subject to such rules and regulations as the commissioner 4 shall prescribe. The tuberculin test shall be applied to bovine 5 animals at such times as may be designated by the commissioner 6 as may be necessary in the control and eradication of bovine tuberculosis in this state, and all cows whose milk is sold for human 7 consumption or manufacture and all uncastrated beef animals, 8 shall be tested with tuberculin in so far as may be possible. When 9 such bovine animal is found by the officer making the test to 10 give what the commissioner shall have prescribed by his rules 11 12

13 and regulations to be clearly defined reaction to such test, the  
14 said animal shall be considered to be affected with bovine tuber-  
15 culosis, and shall be marked or branded upon the right side of the  
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16 neck from six to ten inches back from the jawbone with a capital  
17 "T," not less than two inches high, one and one-half inches  
18 wide with mark one-fourth of an inch wide; unless the owner  
19 elects as hereinafter provided to keep the animal in quarantine  
20 for eight weeks when the animal shall again be tested by the com-  
21 missioner or his agent at the expense of the owner, and if the  
22 animal again gives a clearly defined reaction it shall be branded,  
23 Any bovine animal affected with advanced or generalized tuber-  
24 culosis or tuberculosis of the udder may be similarly branded,  
25 and such branding shall not be construed as cruelty to animals  
26 within the meaning of the penal laws of the state. If such  
27 a reacting animal be pure bred and registered or eligible to  
28 registry, and the owner of such reacting animal shall desire  
29 to keep it, such option is allowed, providing the animal does not,  
30 in the judgment of the officer making the examination and test,  
31 show evidence of physical breakdown, then or any time there-  
32 after, probably due to the disease, and it shall then be the duty  
33 of the commissioner or his agent to place such animal in quar-  
34 antine, and the owner or owners thereof, their agents or em-  
35 ployees shall maintain the said animal in quarantine as pre-  
36 scribed by the commissioner or his agents and the product or

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37 products of such reacting animal shall be disposed of under such  
38 restrictions as the commissioner shall designate.

38-a Except as hereinbefore provided all bovine animals within  
38-b the state which are deemed tuberculous, either as a result of  
38-c physical examination or the tuberculin test, shall be slaughtered  
38-d within a time and at a place designated by the commissioner  
38-e or his agent, and if the owner of any such tuberculous animal  
39 shall desire to receive indemnity therefor, he shall be required by  
40 the commissioner before the appraisal and slaughter of the animal  
41 to execute an agreement that he will thoroughly clean and dis-  
42 infect all premises that may have been infected by such tuber-  
43 culous animal in such a manner as the commissioner may pre-  
44 scribe; will have his entire herd of bovine animals tested with  
45 tuberculin by the commissioner or his agent at such times as  
46 the commissioner may designate, and will not admit to his herd

47 any bovine animal that has not given a negative reaction to the  
47-a tuberculin test. Such an agreement shall be in duplicate, one  
48 copy to be retained by the signer, and in such form as the  
49 commissioner shall designate, and shall be signed by the owner or  
50 owners or their agents, and shall be in effect for a period of two  
51 years from the date thereof. All such tuberculous animals shall  
52 be appraised before being slaughtered, the owners to be indemni-  
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53 fied, as hereinafter provided.

54 The commissioner or his agents shall act as appraisers and  
55 shall appraise each tuberculous animal within five days prior to  
56 the date of slaughter, basing the amount upon the class and  
56-a market value of the animal at the time of the appraisal, whether  
57 for breeding purposes or whether for milk or meat production.  
58 Animals reacting to the tuberculin test but not exhibiting any  
59 physical evidence of tuberculosis shall be appraised without con-  
60 sidering the presence of a diseased condition, but animals ex-  
61 hibiting any physical evidence of tuberculosis shall be appraised  
62 as diseased animals. The amount of appraisal shall not exceed  
63 the amount of two hundred and fifty dollars for pure bred  
64 registered animals or the sum of one hundred and fifty dol-  
65 lars for a grade or non-registered animal. If the amount of  
66 appraisal of any animal, as determined by the appraiser desig-  
67 nated, is not satisfactory to the owner of such animal, a written  
68 notice of such fact, setting forth the reason for complaint, shall  
69 be made to the appraiser at once. The amount of the appraisal  
70 shall then be determined by arbitrators, one to be appointed  
71 by the appraiser and one by the owner of the animal. If said  
72 arbitrators are not able to agree as to the amount of appraisal  
73 a third arbitrator shall be appointed by them, whose decision

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74 shall be final. Arbitrators shall be paid one dollar for each ap-  
75 praisement of five or less than five animals and two dollars, if  
76 more than five animals are appraised. Compensation for the  
77 arbitrators appointed by the owner and the third arbitrator, if  
78 appointed, shall be paid by the commissioner if the decision made  
79 is against the arbitrator appointed by the veterinarian, but if  
80 the decision is in favor of such arbitrator the owner shall pay  
81 the compensation of the arbitrator appointed by him and the  
82 third arbitrator, if appointed.

83 After such agreement has been executed and appraisal has

84 been made, it shall be the duty of the commissioner or his agent  
85 to see that the animal is slaughtered and the carcass disposed  
86 of in accordance with the meat inspection regulations of the  
87 United States bureau of animal industry, or in such manner  
88 as the commissioner shall prescribe. When the animal is to be  
89 slaughtered, as herein provided, the commissioner or his agent  
90 shall make and deliver to the owner a certificate which may  
91 cover any number of animals belonging to the same owner,  
92 showing the age and description of each animal found to be tuber-  
93 culous, the name and place of test, the mark or brand as tuber-  
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94 culous and any other mark or brand which the animal may bear,  
95 the date when and the place to which the animal was sent for  
96 slaughter by the veterinarian, the designation of the officer who  
97 is to supervise the slaughter, the appraised value of said animal  
98 or animals, the name and address of the owner of the animal  
99 and the fact that he has executed the agreement hereinbefore  
100 provided for. The officer supervising the slaughter shall, im-  
101 mediately after the same, endorse upon or add to the foregoing  
102 certificate that he has witnessed the slaughter of each of said  
103 animals, the place and date thereof, that the number, age, de-  
104 scription and brand or mark corresponding to those given in  
105 the certificate of the officer who made the former certificate and  
106 shall state the result of his post-mortem examination, the dis-  
107 position made of the carcass, and the price received for the  
108 same by the veterinarian. The slaughter may be supervised and  
109 certificate thereof may be made by the commissioner or any of  
110 his agents or any person possessing the authority of an agent,  
111 or an officer of the United States bureau of animal industry.  
112 The commissioner may require such other particulars to be added  
113 to either of said certificates or the affidavit hereinafter required,  
114 and may make and enforce such rules and regulations governing

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115 the handling, shipping and slaughter of such animals as may be  
116 deemed necessary.

117 The owners of such animals shall be indemnified in such  
118 amount as shall be determined by the results of post-mortem in-  
119 spection by the officer supervising the slaughter according to  
120 the following rules:

121 RULE 1. If an animal is found, upon post-mortem inspec-  
122 tion, not to be affected with tuberculosis, the carcass and other

123 edible portions shall be passed as food, and the veterinarian shall  
124 sell the same, including all accompanying parts, for the best  
125 price obtainable, which price shall be paid to the owner and de-  
126 ducted from the amount of appraisal, and the balance, if any,  
127 thus remaining, shall be paid the owner.

128     RULE 2. If any animal is found, upon post-mortem in-  
129 spection, to be affected with tuberculosis, and the lesions are  
130 such that the carcass and parts of the carcass are passed for  
131 food, the veterinarian shall sell the same, including all accompan-  
132 ing parts, for the best price obtainable, which price shall be paid  
133 to the owner and deducted from eighty per centum of the  
134 amount of the appraisal, and the balance, if any thus remaining  
135 shall be paid the owner.

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136     RULE 3. If any animal, upon post-mortem inspection, is  
137 condemned for offal, the veterinarian shall sell the hide and offal  
138 for the best price obtainable, which price shall be paid to the owner  
139 and deducted from forty per centum of the appraisal, and the  
140 balance, if any, thus remaining shall be paid the owner.

141     After such tuberculous animal shall have been slaughtered,  
142 as herein provided for, the veterinarian shall, as soon as pos-  
143 sible forward to the commissioner, who shall, if found to be  
144 correct, approve the same and within thirty days, file with the  
145 county court of the county in which said animals are owned at the  
146 time they were condemned as tuberculous, as herein provided, the  
147 foregoing certificates, together with the owner's claim for in-  
148 demnity, and his affidavit that he has thoroughly cleaned and dis-  
149 infected his premises and complied with the regulations of the  
150 commissioner in respect thereto and in respect to the remainder  
151 of his herd. If the said county court, upon examination of the  
152 certificates filed as aforesaid and of the affidavit of the claimant  
153 and any evidence that may be presented, shall find the claim is  
154 regular and the facts therein set up are true, and that the claim-  
155 ant is entitled to indemnity as herein provided, the county court  
156 shall make an order allowing the claimant one-half of the indem-

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157 nity hereinbefore provided for, which shall be paid upon the order  
158 of the county court out of the general funds of the county. The  
159 commissioner shall at the end of the fiscal year issue his warrant  
160 upon the state auditor in favor of the claimant, for the remaining  
161 one-half of the indemnity allowed, which shall be paid out of

162 any moneys appropriated for carrying out the provisions of this  
163 act; *provided*, that at the end of each fiscal year the claimants for  
164 such certificates of value shall be paid the same from the current  
165 appropriations made for that purpose; *provided*, further, that the  
166 amount to be paid on such certificates in any one year shall not  
167 exceed the amount appropriated for such purpose, which amount  
168 shall be paid pro rata at the end of each fiscal year; *provided*,  
169 *further, however*, that the right to indemnity shall not exist nor  
170 shall payment be made in either of the following cases:

171 (1) For animals owned by the United States, this state  
172 or any county, city, town or village in this state.

173 (2) For animals brought into this state contrary to the pro-  
174 visions of this act, or where the owner of the animals or persons  
175 claiming compensation has failed to comply with the provisions  
176 of the same.

177 (3) When the owner or claimant at the time of coming into  
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178 possession of the animal knew or had reason to believe it to be af-  
179 flicted with a dangerous or contagious disease.

180 (4) When the owner shall have been guilty of negligence or  
181 had carelessly exposed such animals to the influence of contagious  
182 or infectious disease.

Sec. 18. That clause of section eighteen chapter  
2 thirteen acts one thousand nine hundred and fifteen, relating to  
3 indemnity shall read "for a non-registered bovine animal the sum  
4 of one hundred and fifty dollars; for a registered bovine animal  
5 two hundred and fifty dollars."

6 Whenever, to prevent the spread of any disease mentioned  
7 in section six of this act, it shall be deemed necessary by the  
8 commissioner or any of his agents to cause any domestic animal to  
9 be killed, and the owner thereof shall desire to receive indemnity  
10 therefor, the owner thereof shall be required to execute an  
11 agreement with the commissioner or his agent that he will thor-  
12 oughly clean and disinfect all premises that may have been in-  
13 fected by such diseased animals in such manner as the com-  
14 missioner or his agent may prescribe. Such an agreement  
15 shall be in duplicate, one copy to be retained by the signer and  
16 in such form as the commissioner may designate, and shall be

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17 signed by the owner or owners or their agents, and shall be  
18 in force for a period of two years from the date thereof. The

19 commissioner or any agent so authorized shall act as appraiser  
20 and shall appraise each such diseased animal within five days  
21 prior to its slaughter, basing the amount upon the market value  
22 of the animal at the time of appraisal. Animals reacting to  
23 any approved test for a disease but otherwise apparently healthy  
24 shall be appraised without considering the presence of the diseased  
25 condition, but animals exhibiting any physical evidence of dis-  
26 ease shall be appraised as diseased animals, taking into considera-  
27 tion the condition of the animal as to disease, and the nature and  
28 extent of the disease, and its present and probable effect on the  
29 animal, and having regard to the probable sums to be derived from  
30 the sale of the carcass, hide and offal. The amount of appraisal  
31 shall in no case exceed one hundred dollars for a non-registered  
32 bovine animal or two hundred and fifty dollars for a registered  
33 bovine animal; for a sheep or pig the sum of ten dollars; *pro-*  
34 *vided, however,* that in case of an outbreak of foot and mouth  
35 disease, or any other dangerously contagious or infectious dis-  
36 ease among bovine animals and on account of which disease,  
37 bovine animals are being destroyed by order of federal authority  
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38 and for which said bovine animals so destroyed, the federal gov-  
39 ernment pays one-half the true and actual value according to  
40 the appraisal, that the state of West Virginia pay one-half  
41 and only one-half the true and actual value as above stated. If the  
42 amount of appraisal of any animal as determined by the ap-  
43 praiser designated is not satisfactory to the owner  
44 of such animal, the appraisal may be made by arbitra-  
45 tors as provided in section seventeen of this act. After  
46 such agreement has been executed and appraisal has been  
47 made, it shall be the duty of the commissioner or his agent to  
48 see that the animal is killed and the carcass disposed of in ac-  
49 cordance with the provisions of this act and the rules of the  
50 commissioner. When the animal is to be killed the commissioner  
51 or his agent shall make and deliver to the owner a certificate  
52 which may cover any number of animals belonging to the same  
53 owner, showing the age and description of each animal the ap-  
54 praised value of said animal or animals, the name and address  
55 of the owner of the animal and the fact that he has executed the  
56 agreement hereinbefore provided for. At the end of each fiscal  
57 year the holders of such certificates of value shall be paid two-thirds  
58 of the value of the same from the current appropriation made for

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59 carrying out the purposes of this act; *provided*, that the amount  
 60 paid on such certificates and those similarly provided for in sec-  
 61 tion seventeen of this act in any one year shall not exceed the  
 62 appropriation made therefor, which amount shall be paid *pro*  
 63 *rata* at the end of each fiscal year on an order signed by the com-  
 64 missioner. When any animal is so killed the owner subject to  
 64-a the regulations of the commissioner may dispose of the whole or  
 65 any part of the carcass and of the hides and offal in such man-  
 66 ner as may not tend to spread disease or affect the health of the  
 67 public.

## House Bill No. 22

[BY MR. BLIZZARD.]

Introduced January 13, 1919. Referred to the Committee on Labor.  
 January 28, reported back with the recommendation that it do pass;  
 January 28, coming up in regular order for consideration, was read  
 a first time and ordered to its second reading.

A BILL to protect the public health and welfare, by regulating the  
 employment of females in certain establishments, with respect to  
 their hours of labor and the conditions of their employment; by  
 establishing certain sanitary regulations in the establishments in  
 which they work; by requiring certain abstracts and notices to be  
 posted; by providing for the enforcement of this act by the Com-  
 missioner of Labor or his deputies; by providing for a woman in-  
 spector to assist with its enforcement; by prescribing penalties for  
 violations thereof; by defining the procedure in prosecutions.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the term "establishment," when used in this  
 2 act, shall mean any place within this state where work is done for  
 3 compensation of any sort, to whomever payable: *Provided*, That  
 4 this act shall not apply to work in private homes and farming.

5 The term "person," when used in this act, shall be construed  
 6 to include any individual, partnership, or other unincorporated as-  
 7 sociation, corporation, and municipality.

8 The term "week," when used in this act, shall mean any seven

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9 consecutive days, and the term "day," shall mean any twenty-four  
 10 consecutive hours.



Sec. 2. Whenever in this act the singular is used the plural shall be included, and whenever the masculine gender is used the feminine and neuter shall be included.

Sec. 3. No female shall be employed or permitted to work in, or in connection with, any establishment for more than six days in any one week, or more than forty-eight hours in any one week, or more than nine hours in any one day.

Whenever any female shall be employed or permitted to work in, or in connection with, more than one establishment in any one week or in any one day, the aggregate number of hours during which she shall be employed or permitted to work in, or in connection with, such establishment shall not exceed the number of hours prescribed in this section for such females in any one week or any one day.

Sec. 4. No female shall be employed or permitted to work in any manufacturing establishment before the hour of six o'clock in the morning, or after the hour of ten o'clock in the evening, of any day: *Provided*, That this section does not apply to females employed as telephone operators.

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Sec. 5. Not less than forty-five minutes shall be allowed to every female employed or permitted to work in, or in connection with, any establishment, for the mid-day meal, which period shall not be considered a part of the hours of labor: *Provided*, That, whenever any female shall be employed or permitted to work in, or in connection with, any establishment for less time than eight hours in any one day, the time allowed for the mid-day meal may be reduced to not less than thirty minutes.

Employees shall not be required to remain in the work-rooms during the time allowed for meals.

Sec. 6. No female shall be employed or permitted to work for more than six hours continuously in, or in connection with, any establishment, without an interval of at least forty-five minutes, and no period of less than forty-five minutes shall be deemed to interrupt a continuous period of work: *Provided*, That whenever any female shall be employed or permitted to work in, or in connection with, any establishment for less than eight hours in any one day, the interval between work-periods may be reduced to not less than thirty minutes.

Employees shall not be required to remain in the work-rooms during the rest periods required by this section.

Sec. 7. Any person employing or permitting any female to  
2 work in any establishment where white lead, arsenic or other  
3 poisonous substances, or injurious fumes, dust or gases, shall be  
4 present, shall provide and maintain a suitable room, free from the  
5 aforesaid substances, fumes, dust and gases, for the use of said fe-  
6 male employees; and no such person shall, during the time allowed,  
7 permit any such female to remain in any room where the aforesaid  
8 substances, fumes, dust, and gases shall be present.

Sec. 8. Any person who shall employ or permit any female  
2 to work in any establishment in which poisonous or injurious dust,  
3 fumes, or gases shall be created by machinery or material in pro-  
4 cess of manufacture, shall provide proper hoods and pipes con-  
5 nected with exhaust-fans of sufficient capacity to remove such dust,  
6 fumes or gases at their point of origin, and prevent them from  
7 mingling with the air in the room, and such fans shall be kept run-  
8 ning constantly while such dust, fumes, or gases shall be generated.

Sec. 9. Any person employing any female in any establish-  
2 ment shall make reasonable efforts to at all times provide a suffi-  
3 cient supply of clean and pure drinking water. Then water shall  
4 be supplied through proper pipe connections with water-mains  
5 which furnish water for domestic purposes, or from a spring or  
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6 well, or body of pure water. If drinking water be placed in recep-  
7 tacles in the establishment, such receptacles shall be properly cov-  
8 ered to prevent contamination, and shall at all times be kept  
9 thoroughly clean: *Provided*, That no employer in any establish-  
10 ment shall collect from any such female employee any money for  
11 ice furnished in his establishment for drinking purposes, for the  
12 use of the employees.

Sec. 10. Every person employing or permitting any female  
2 to work in any establishment shall keep posted, in a conspicuous  
3 place in the room where such female shall be employed or per-  
4 mitted to work, a printed abstract of the provisions of this act, and  
5 a schedule of the hours of labor of such female: *Provided*, That  
6 when any female shall be employed or permitted to work in more  
7 than one room in any establishment, the aforesaid abstract and  
8 schedule shall be required in only one of the said rooms. If any  
9 female shall be employed or permitted to work in connection with  
10 any establishment, but not in such establishment, the aforesaid

11 abstract and schedule shall be kept posted in a conspicuous place  
12 in the office of such establishment.

13 The schedule of hours of labor herein required shall contain  
14 the name of the female employed or permitted to work, the maxi-

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15 mum number of hours such female shall be required or permitted  
16 to work on each day of the week, with the total for the week, the  
17 hours of commencing and stopping work, and the hours when the  
18 time allowed for meals shall begin and end for each day of the week.  
19 Such female may begin work after the time for beginning, and  
20 stop before the time for ending work, stated in such schedule; but  
21 she shall not otherwise be employed or permitted to work in, or in  
21 she shall not otherwise be employed or permitted to work in, or in  
23 dule.

24 The Commissioner of Labor shall prepare the 'abstract of the  
25 provisions of this act, and a form for the schedule of hours of labor  
26 required by this section. Copies of such abstract and such form  
27 shall be printed, and the Commissioner of Labor shall supply the  
28 same, upon application, to all persons required to post the abstract  
29 and schedule aforesaid.

Sec. 11. All rooms, buildings, and places in this State where  
2 labor is employed or shall hereafter be employed, shall be so con-  
3 structed, equipped and arranged, operated and conducted, in all  
4 respects, as to provide reasonable and adequate protection for the  
5 life, health, safety, and morals of all persons employed therein.

Sec. 12. For the carrying into effect of the provisions of this  
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2 act, and the provisions of all the laws of this State, the enforce-  
3 ment of *which is now or shall hereafter be intrusted to*, or imposed  
4 upon the Bureau of Labor, the Commissioner of Labor shall have  
5 power to make, alter, amend, and repeal general rules and regula-  
6 tions necessary for applying such provisions, to specify conditions,  
7 and to prescribe means, methods and practices to carry into effect  
8 and enforce such provisions.

Sec. 13. It shall be the duty of the Commissioner of Labor  
2 and his deputies to enforce all the provisions of this act. They  
3 shall visit and inspect establishments, and shall have power at any  
4 reasonable time to visit and inspect any establishment in or in  
5 connection with which any female shall be employed or permitted  
6 to work. They shall investigate all complaints of violations of this

7 act received by them, and shall institute prosecutions for violations  
8 thereof.

Sec. 14. A woman inspector shall be provided to assist in the  
2 enforcement of the provisions of this act, and all other laws for  
3 women and children whose enforcement is intrusted to the Bureau  
4 of Labor.

Sec. 15. All prosecutions for violations of this act shall be  
2 reported to the prosecuting attorney of the county in which the  
10  
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3 violation occurs by the Commissioner of Labor or his deputies;  
4 whereupon said prosecuting attorney shall proceed against the  
5 guilty persons thereof, as in any other cases of misdemeanor;  
6 *provided*, if the prosecuting attorney fails in the discharge of his  
7 duty, the Commissioner of Labor may call upon the Attorney Gen-  
8 eral to act instead. Upon a conviction after hearing, the penalties  
9 provided in this act shall be imposed, and shall be final, unless an  
10 appeal be taken to a higher court within twenty days after the  
11 imposition of the penalties aforesaid.

Sec. 16. Any person who, whether by himself or for another,  
2 or through an agent, servant, or foreman, shall violate any pro-  
3 visions of this act, shall be guilty of a misdemeanor.

4 Upon conviction for a violation of any provision of this act,  
5 he shall be punished, for a first offense by a fine of not less than  
6 ten (\$10) dollars or more than fifty (\$50) dollars; for a second  
7 subsequent offense, by a fine of not less than twenty-five (\$25)  
8 dollars or more than two hundred (\$200) dollars, or by imprison-  
9 ment for not more than sixty days, or by both, at the discretion  
10 of the court; and whenever any person shall have been notified by  
11 the Commissioner of Labor or his deputy that he is violating such  
12 provision, he shall be punished by like penalties in addition for  
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13 each and every day that such violation shall have continued after  
14 such notification;

15 *Provided*,

16 *First*. That whenever a violation of any provision of this act  
17 shall also be a violation of another provision, or other provisions,  
18 of this act, penalties may be imposed for the violation of each and  
19 and every such provision.

20 *Second*. That under no circumstances shall any person be  
21 sentenced to imprisonment for more than one year for any one  
22 violation of this act.

23 *Third.* That whenever a violation of any of the provisions of  
 24 this act shall also be a violation of the laws of this State regulating  
 25 the hours of labor and conditions of employment of minors, penal-  
 26 ties shall be imposed under only one of such acts.

Sec. 17. All fines collected for violations of this act shall  
 2 be paid into the common school fund of the county in which the  
 3 offense was committed.

Sec. 18. Nothing in this act shall be construed to prevent  
 2 females of any age from receiving industrial training or other  
 3 education in, or in connection with, any school or educational  
 4 institution in this State.

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5 Each section of this act and every part thereof is hereby de-  
 6 clared to be an independent section, or part of a section, and if  
 7 any section, subsection, sentence, clause, or phrase of this act shall  
 8 for any reason be held unconstitutional, the validity of the remain-  
 9 ing phrases, clauses, sentences, subsections, and sections of this  
 10 act shall not be affected thereby.

Sec. 19. The provisions of this act shall become effective  
 2 within ninety days after date of its passage, and as soon as possible  
 3 thereafter the Commissioner of Labor shall cause a printed copy  
 4 thereof to be transmitted to each employer of female labor in this  
 5 State.

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## House Bill No. 100

[BY MR. BLACKHURST]

Introduced Jan. 17, 1919. Referred to the Committee on the  
 Judiciary Jan. 20, reported back with the recommendation that it do  
 pass; Jan. 22, coming up in regular order for consideration was read a  
 first time and ordered to its second reading.

A BILL to amend and re-enact sections twenty-two and twenty-three  
 of chapter one hundred and twelve-a of the code of West Virginia,  
 one thousand nine hundred and thirteen, (being serial sections  
 four thousand five hundred and eighty-four and four thousand  
 five hundred and eighty-five of said code) and chapter ninety-  
 seven of the acts of one thousand nine hundred and seventeen, fix-  
 ing the time of holding the regular terms of the circuit court in  
 the twentieth judicial circuit.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There shall be held in each year at least three terms of the circuit court of the two counties of the twentieth judicial circuit, and the terms for each of the said counties shall commence and be held as provided in section two of this act.

Sec. 2. For the county of Greenbrier, on the third Tuesday in January, on the second Tuesday in May, and on the second Tuesday in September, in each year.

For the county of Pocahontas on the first Tuesday in April, on

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the first Tuesday in June, and on the first Tuesday in October, in each year.

Sec. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

## House Bill No. 214

[ORIGINATING IN THE COMMITTEE ON THE JUDICIARY.]

Introduced January 31, 1919. Coming up in regular order for consideration, was read a first time and ordered to its second reading. A BILL to amend and re-enact section seven of chapter one hundred and forty-eight of the code of West Virginia, relating to deadly weapons and state license to carry weapons.

*Be it enacted by the Legislature of West Virginia:*

That section seven of chapter one hundred and forty-eight of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 7. *Clause a.* It shall be unlawful for any person to sell, offer or expose for sale any dirk, bowie knife, slung shot, metallic or other false knuckles or any other dangerous or deadly weapon of like kind and character.

*Clause b.* It shall be unlawful for any person to knowingly sell any rifle, shotgun, pistol or other firearm of any kind or character, or any ammunition therefor, or any other dangerous or deadly weapon of like kind or character to any unnaturalized foreign born person in this state.

Any person violating clauses *a* and *b* shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not

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12 less than ten nor more than one hundred dollars for each and  
13 every offense.

14 *Clause c.* It shall be unlawful for any person to carry  
15 about his person any dirk, bowie knife, slung shot, metallic or  
16 other false knuckles or any other dangerous or deadly weapon  
17 of like kind and character.

18 *Clause d.* It shall be unlawful for any person, without a  
19 state license therefor as hereinafter provided, to carry about his  
20 person any revolver, pistol, billy, or any other dangerous weapons  
21 of like kind and character.

22 Any person violating any of the provisions of this section,  
23 for which punishment is not otherwise herein provided, shall be  
24 guilty of a misdemeanor and upon conviction thereof shall be  
25 confined in the county jail for a period of not less than six nor  
26 more than twelve months for the first offense; and upon con-  
27 viction of the same person for the second offense, he shall be guilty  
28 of a felony, and shall be confined in the penitentiary of this state,  
29 not less than one nor more than five years and in either case may  
30 also be fined not less than fifty dollars nor more than two hun-  
31 dred dollars, at the discretion of the court. It shall be the duty  
32 of the prosecuting attorney to ascertain in each case whether or  
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33 not the charge made by the grand jury is the first or second  
34 offense, and if it shall be the second offense it shall be so stated  
35 in the indictment returned, and the prosecuting attorney shall  
36 introduce the record evidence of said first offense, and shall not  
37 be permitted to use his discretion in charging said first offense  
38 nor in introducing such evidence; provided, that persons under  
39 the age of eighteen years may, at the discretion of the court, be  
40 sent to the reform school of this state.

41 It shall be the duty of every sheriff, deputy sheriff, or other  
42 police officer to seize any dangerous or deadly weapons in the pos-  
43 session of any person in violation of this act, and to deliver the  
44 same to the circuit court of the county in which seized, which  
45 weapon shall be confiscated and disposed of in such manner as the  
46 circuit court may order.

47 Any citizen of this state may obtain a state license to carry  
48 any riot gun, revolver, billy or mace, or other weapon of like  
49 kind and character, by application therefor to the circuit court  
50 of the county in which he resides, after first publishing notice,  
51 once a week for two successive weeks, in a newspaper of general

52 circulation in such county, of his name, residence and occupation,  
53 and of the date on which such application will be made, where-

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54 upon the circuit court may grant such license in the following  
55 manner, to-wit:

56 *First.* Such person shall file with the circuit court an ap-  
57 plication in writing stating his name, residence and occupation,  
58 and the purpose or purposes for which, and the period during  
59 which, he desires to carry such weapon, and upon the hearing  
60 thereon, on the day stated in such notice, he shall prove such  
61 facts stated in his application and that he is over twenty-one  
62 years of age, of good moral character, temperate habits and not  
63 addicted to the use of intoxicating liquor or drugs and has not  
64 been convicted of a felony nor any offense relating to the sale,  
65 possession or use of any dangerous or deadly weapon.

66 *Second.* If the circuit court is satisfied from such proof  
67 that there is good reason and cause for carrying such weapon,  
68 and that such person has complied with all the other conditions  
69 of this act, the circuit court may grant to such person a license  
70 to carry such weapon. But before the said license shall be  
71 effective, such person shall pay to the sheriff of such county  
72 the sum of ten dollars and shall file with the clerk of the cir-  
73 cuit court a bond in the penalty of three thousand five hundred  
74 dollars, with good security, signed by a responsible person or per-  
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75 sons, or by some surety company authorized to do business in this  
76 state, conditioned that such licensee will not carry such weapon  
77 except in accordance iwth his said application and as authorized  
78 by the court, and that he will pay all costs and damages accruing  
79 to any one by the accidental discharge or improper, negligent or  
80 illegal discharge or use of said pistol. ny such license shall be  
81 good for one year, unless sooner revoked, and be co-extensive with  
82 the state, and all licenses collected hereunder shall be accounted  
83 for to the auditor and paid over by the sheriffs as other license  
84 taxes are collected and paid, and the state tax commissioner  
85 shall prepare all suitable forms for licenses and bonds and cer-  
86 tificates showing that such license has been granted, and do  
87 anything else in the premises to protect the state and to see  
88 to the enforcement of this act.

89 At the expiration of each year such license may be extended  
90 for the period of one year by such licensee paying to the sheriff of



91 such county the sum of ten dollars and filing with the clerk of the  
92 circuit court a new bond of like penalty, security and condition,  
93 for the year for which such license is extended. Any such license,  
94 or renewal thereof, may be revoked by the circuit court upon  
95 complaint of any citizen and after five days notice to the li-

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96 censee.

97 *Provided*, that nothing herein shall prevent any person from  
98 carrying any revolver, billy, mace, or other weapon of like  
99 kind or character, in good faith and not for a felonious pur-  
100 pose, upon his own premises, nor shall anything herein prevent  
101 a person from carrying any such weapon (and if it be a  
102 revolver or other pistol unloaded) from the place of pur-  
103 chase to his home or place of residence or a place of repair  
104 and back to his home or residence; and, *provided*, further,  
105 that in cases of riot, public danger and emergency, a justice  
106 of the peace or other person issuing a warrant may author-  
107 ize a special constable and his posse to carry such weapons  
108 for the purpose of executing a process, and a sheriff in such  
109 cases may authorize a deputy or posse to carry weapons, but  
110 the justice shall write on his docket the causes and reasons  
111 for such authority and the person so authorized, and index the  
112 same, and the sheriff or other officer shall write out and file  
113 with the clerk of the county court the reasons and causes for  
114 such authority and the person so authorized, and the same shall  
115 always be open to public inspection, and such authority shall  
116 authorize such special constable, deputies and posses to carry  
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117 weapons in good faith only for the specific purposes and times  
118 named in such authority, and upon the trial of every indictment  
119 the jury shall inquire into the good faith of the person attempt-  
120 ing to defend any such indictment under the authority granted by  
121 any such justice, sheriff or other officer, and any such person  
122 so authorized shall be personally liable for the injury caused  
123 any one by the negligent or unlawful use of any such weapon. It  
124 shall be the duty of all ministerial officers, consisting of the  
125 justices of the peace, notarial public and other conservators of  
126 the peace of this state, to report to the prosecuting attorney of  
127 the county the names of all persons guilty of violating this  
128 section, and any person wilfully failing so to do, shall be guilty  
129 of a misdemeanor and shall be fined not exceeding two hun-

130 dred dollars, and shall, moreover, be liable to removal from  
131 office for such wilful failure; and it shall likewise be the  
132 duty of every person having knowledge of the violation of this  
133 act, to report the same to the prosecuting attorney, and to freely  
134 and fully give evidence concerning the same, and any one  
135 failing to do so, shall be guilty of a misdemeanor and upon  
136 conviction thereof shall be fined not exceeding one hundred  
137 dollars.

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138     *Provided, further,* that nothing herein contained shall be  
139 so construed as to prohibit regularly elected sheriffs and all  
140 regularly elected constables in their respective counties and  
141 districts, who shall have given bond in the penalty of not  
142 less than thirty-five hundred dollars, conditioned for the  
143 the faithful performance of their respective duties, and regu-  
144 larly appointed deputies of the sheriffs who shall have  
145 given bond in the penalty of not less than thirty-five hun-  
146 dred dollars, likewise conditioned, before the county court of  
147 the county for which such deputy is appointed, and all regu-  
148 larly appointed police officers of the respective cities, towns  
149 or villages, when each of whom has given bond to be approved  
150 by the council or other governing body of each city, town or  
151 village, and likewise conditioned, from carrying such weapons  
152 as they were authorized by law to carry prior to the enact-  
153 ment of chapter fifty-one of the acts of the legislature of one  
154 thousand nine hundred and nine, and all of said officers shall  
155 be liable upon their official bond for the damages done by the  
156 unlawful or careless use of any such weapon whether such bond  
157 is so conditioned or not.

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## House Bill No. 26

[BY MR. MCCLINTIC]

Introduced January 13, 1919. Referred to the Committee on the  
Judiciary; January 29, reported back with the recommendation that  
it do pass; January 31, coming up in regular order for consideration,  
was read a first time and ordered to its second reading.

A BILL to amend and re-enact chapter forty-seven of the acts of one thousand nine hundred and fifteen of the legislature of West Virginia, in relation to the authentication and record of maps.

*Be it enacted by the Legislature of West Virginia:*

That chapter forty-seven of the acts of one thousand nine hundred and fifteen of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

Section 1. Any person desiring to record in the clerk's office of any county in this state, any map or plat of land, may do so upon complying with the provisions of this act, and no acknowledgment or other proof shall be required. Every such map or plat, in addition to the property lines or courses indicated thereon, and such other matters as the draughtsman may desire, shall show: (1) the name of the land, addition or sub-division, by which the said map or plat shall be known; (2) the name of the engineer, surveyor or draughtsman, who made the same; (3) the date when made; (4) the scale on which it is made; (5) the north and south line in its relative location to the property lines. Every such map or plat shall be an original tracing on a good quality of trac-

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ing linen from which good blue print copies can be made and each such map or plat shall be accompanied by a good blue print copy when presented for record. It shall be the duty of the clerk to refuse to receive for record any map or plat unaccompanied by such blue print and which does not conform in all respects to the requirements of this act.

Every such map or plat shall be of a uniform size or sizes, which may be prescribed by the county court of each county, for all maps and plats recorded in such county, but unless a different size be prescribed by the county court, the size of all such maps or plats shall be thirty by thirty-six inches.

It shall be the duty of the county court of each county, to provide suitable covers, backs or bindings for the preservation and convenient examination of said original tracings and blue prints. The tracings shall be carefully preserved by the clerk, and the blue prints only shall be open to public examination. The clerk shall prepare and keep a suitable and comprehensive index to the said maps or plats for public use, and a like index of said original tracings. In case any of such blue print copies shall become worn out, mutilated or destroyed, the county court shall cause new blue

33 prints to be made from said original tracings from time to time as  
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34 may be necessary to keep the public record of maps in good condi-  
35 tion.

36 In case any one shall desire a copy of any map so recorded, it  
37 shall be lawful for the clerk having the custody of said original  
38 tracing, to entrust the same to any competent and reliable person,  
39 who shall promptly print from said original tracings the number  
40 of copies desired by the clerk and without delay return the said  
41 tracing and copy or copies to said clerk. And it shall be the  
42 duty of said clerk to see that the said original tracing is promptly  
43 returned to him and again filed away in its proper place.

44 If any person shall wilfully, and with intent to deceive or  
45 defraud any one, make any change or alteration in any such origi-  
46 nal tracing after the same has been so recorded, he shall be guilty  
47 of a misdemeanor and upon conviction, be fined not less than one  
48 hundred, nor more than one thousand dollars, in the discretion of  
49 the court.

50 It is hereby made the duty of every person, who has laid off  
51 shall hereafter lay off, or sub-divide any land in any county in this  
52 state, into lots for the purpose of selling the same, and who has  
53 not already filed in the county clerk's office of the county in which  
54 the land is situated, a map or plat of the same, to file in said  
55 clerk's office within sixty days from the passage of this act, or with-

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56 in a like period of time after laying off any such land and before  
57 any deed shall be made to any one for any of the land laid down  
58 thereon, an original tracing and blue print copy as herein provided.  
59 And where any land has been partitioned by suit or otherwise and  
60 a plat of said lands shall be made, it shall be the duty of the own-  
61 ers to file such original tracing and blue print copy in the clerk's  
62 office, in accordance with the provisions of this act.

63 The clerk of the county court shall be entitled to charge a fee  
64 of fifty cents for receiving and filing any map or plat under the  
65 provisions of this act and such fee shall cover the filing of said  
66 original tracing and blue print and indexing the same. For each  
67 certified blue print copy, of any original tracing in his office, the  
68 clerk shall charge only the actual cost of such blue print and  
69 twenty-five cents in addition for his certificate that the same is a  
70 true copy of the original tracing in his office.

# House Bill No. 183

[By Mr. Parsons, by request]

Introduced January 27, 1919. Referred to the Committee on Taxation and Finance; January 30, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to encourage the breeding of horses, the establishment of fairs and to regulate the holding of fairs, race meetings and the running of horses in the state of West Virginia, and to establish a state racing commission to control the same and describing its powers and uses.

*Be it enacted by the Legislature of West Virginia:*

*First:* Any corporation or association formed for the purpose of racing and the breeding and improving the breed of horses and conducting horse races in contests of speed, and the establishment of fairs, exhibition of horses, shall have the power and right, subject to the provisions of this act, to hold one or more race meetings in each year and to hold, maintain and conduct running, trotting and pacing races at such meetings.

At such meetings the corporation or owners of the horses engaged in such races, or others who have participated in the races for purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owners of horses contesting in a race shall have any pecuniary interest in the purses,

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prizes, premiums or stakes contested for in such races, or be entitled to receive any portion thereof after such race has been finished, and the whole of such purses, prizes, premiums and stakes shall be allotted in accordance with the terms and conditions of such race and the provisions of this act hereinafter contained. Excepting, however, the breeder or breeders of any horses contesting in such race may have allotted in accordance with the terms of such race their share in such purses, prizes, premiums or stacks contested for.

Such meetings and fairs shall not be held except during the each hold office for a term of four (4) years, and each of them period extending from the first day of April until the first day of December, inclusive, in each year, unless, however, for special

25 reasons the state racing commission hereinafter provided for  
26 may authorize other dates.

27 *Second:* A state racing commission is hereby established,  
28 created and constituted, to be composed of three persons, who are  
29 residents and citizens of this state, which shall be appointed by  
30 by the state tax commissioner of this state, and not more than  
31 two of whom shall belong to the same political party.

32 The said state racing commission, so to be appointed, shall  
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34 before assuming the duties of his office shall take an oath to  
35 support the constitution of the United States and the constitution  
36 of this state, and faithfully discharge his duties as such member  
37 of said racing commission, which oath shall be filed in the office  
38 of the secretary of state.

39 The first commissioner to be appointed under this act shall  
40 be appointed within fifteen (15) days after this act goes into  
41 effect. Said commission shall have the power to appoint a secre-  
42 tary who shall serve during its pleasure and who shall have his  
43 office at the capitol of the state, and whose duty it shall be to keep  
44 a full and complete record of the proceedings of the state racing  
45 commission, and to preserve at its office all books, maps, docu-  
46 ments and papers entrusted to his care and perform such other  
47 duties as the commission may prescribe. The said clerk shall be  
48 paid a salary not to exceed fifteen hundred dollars per annum  
49 and each of said members of said racing commission shall receive  
50 a compensation of five dollars per day for the time actually en-  
51 gaged in their duties as members of said commission, together  
52 with their actual expenses in traveling while attending to their  
53 duties as members of said commission. But no part of the salary  
54 of said clerk or commission shall be paid out of the state treasury

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55 but the same shall be assessed by the commission and paid by  
56 the several associations and corporations acting under the pro-  
57 visions of this act and the said commission shall on or before the  
58 first day of December in each year assess upon each of said asso-  
59 ciations and corporations its just proportion of said salary so to  
60 be paid to said clerk and the said commission. The said com-  
61 mission shall before receiving any money for their per diem and  
62 expenses as heretofore provided, file with the tax commissioner  
63 an itemized statement of the time employed by each and the ex-

64 penses incurred by each, which is not to be paid until approved by  
65 the tax commissioner.

66 And the said commission shall also bi-annually make a full  
67 report to the legislature of the proceedings for the two years  
68 period ending with the first day of December preceeding the  
69 meeting of the legislature and shall embody in said report such  
70 suggestions and recommendations as it may deem advisable to  
71 be submitted to the legislature, together with the expenses that  
72 it has assessed upon said meetings and associations to pay the  
73 expenses of said commission and clerk as herein provided, and  
74 what amount has been paid into the state under the provisions  
75 of this act as hereinafter provided.

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76 *Third:* The said racing commission shall have the power to  
77 prescribe the rules, regulations and conditions under which races  
78 shall be conducted in this state, which rules and regulations  
79 shall be recorded upon its books in its office and any corporation  
80 or association desiring to conduct racing at any meeting may an-  
81 nually apply to the state racing commission for a license to do so  
82 and all licenses issued shall also be shown upon the books of said  
83 commission. Said commission shall issue said license and grant  
84 the same for a term of one year, but said license shall contain a  
85 provision that all meetings and races conducted under this act  
86 shall be subject to the rules, regulations and conditions from time  
87 to time adopted by said commission and shall be regulated by  
88 the commission.

89 The books and proceedings of said commission so kept show-  
90 ing the rules prescribed by it for the conduct of said meetings  
91 and the issuing of said licenses and all other proceedings by it,  
92 shall at all times be subject to the inspection upon application  
93 of any one so desiring to see the same and shall be treated as  
94 public records.

95 Said commission may have the power for good reasons to  
96 revoke any license granted by said commission to any associa-

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97 tion or corporation, but the action of said commission in revok-  
98 ing any such license shall be subject to a review by any court of  
99 competent jurisdiction.

100 *Fourth:* Said commission in granting any license to any  
101 such corporation or association to conduct racing, may in its

102 discretion permit the use during such meeting of what is known  
103 as parimutuel machines to be used during such meeting, if such  
104 corporation or association so desires, but it shall be unlawful  
105 for said association or corporation to permit gambling at such  
106 meetings by means of bookmaking.

107 In cases where said commission permits the use of pari-  
108 mutuel machines the said commission shall require in the license  
109 to use the same that at least ten per cent of all money placed  
110 in said machines during any meeting or association, shall be  
111 paid to the tax commissioner of the state and shall be credited  
112 by the tax commissioner to the general school fund of the state.  
113 And the books of said racing association or corporation using  
114 said machines at any meeting conducted by it shall at all times  
115 be open to inspection by the said tax commissioner or said  
116 racing commission, to see that the proper amount due to the state  
117 from the money placed in said machines may be properly ac-  
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118 counted for to the state. And the amount due from any associa-  
119 tion or corporation to the state shall be paid and accounted for  
120 to the tax commissioner of the state on or before the first day  
121 of December of each year; but nothing in this act providing for  
122 the payment of this tax to the state shall prevent the commission  
123 from granting the license to said corporation or association per-  
124 mitting said corporation or association to take from the amount  
125 placed in said machines such additional amount as in its judg-  
126 ment is necessary to maintain said corporation and association  
127 and provide suitable purses, prizes and premiums for breeders and  
128 owners of horses to contest for at such meetings.

129 Public bookmaking and gambling at any race meeting shall  
130 not be permitted by said racing commission and the same is here-  
131 by declared a misdemeanor and shall be punished by a fine not  
132 less than one hundred dollars, nor more than one thousand dol-  
133 lars, for each day the same is permitted or allowed, and any as-  
134 sociation or corporation permitting the same shall be guilty of  
135 such misdemeanor, and all persons aiding and abetting therein  
136 shall likewise be guilty of said misdemeanor and punishable by  
137 fine as hereinbefore provided.

138 But it is expressly provided that this act shall not apply to

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139 horse shows, the purpose of which is merely to show horses, unless



140 racing is conducted and such horse shows add the purses, prizes  
 141 and stakes provided in such race contests and all such meetings  
 142 known as horse shows where prizes, purses and stakes are offered  
 143 in contest for speed shall be under the provision of this act and  
 144 this act shall apply to same.

145 However, in no case shall this act apply to any fair or horse  
 146 show held for a period of not over four days.

147 *Fifth:* All acts, parts of acts, or laws of this state in con-  
 148 flict with this act, are hereby repealed.

## House Bill No. 199

[BY MR. PEDIGO.]

Introduced January 28, 1919. Referred to the Committee on Medicine and Sanitation; January 30, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact sub-section twenty-nine-b of section twenty-nine, chapter one hundred fifty of the code of West Virginia, one thousand nine hundred and thirteen, relating to the sale of drugs and medicines.

*Be it enacted by the Legislature of West Virginia:*

That sub-section twenty-nine-b of section twenty-nine of chapter one hundred and fifty of the code of West Virginia, one thousand nine hundred and thirteen, be amended and re-enacted so that the same shall read as follows:

Sec. 29-b. This act shall apply to the sale of patent or proprietary medicines and to such compounds and ordinary drugs as are usually sold in a country store, except where the store so handling for sale such patent or proprietary medicines and such compounds and ordinary drugs is located in an incorporated town of less than one thousand inhabitants, but the term "ordinary drugs" shall not be held to include any of the poisons named in schedule "a", "b", "c", nor any intoxicating liquors. But nothing in this act shall be construed to interfere with any legally qualified practitioner of medicine, dentistry, or veterinary medicine, who is

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11 not the proprietor of a store for the dispensing or retailing of  
 12 drugs, or who is not in the employ of such proprietor, in the com-

13 pounding of his own prescriptions, or to prevent him from supply-  
14 ing to his patients such medicine as he may deem proper, if such  
15 supply is not made as a sale.

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## House Bill No. 13

[BY MR. PETTIEGREW.]

Introduced January 13, 1919. Referred to the Committee on Roads and Internal Navigation; January 30, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL amending and re-enacting section one hundred and twenty-five of chapter forty-three of the code of West Virginia, by adding section one hundred and twenty-five-a.

*Be it enacted by the Legislature of West Virginia:*  
*Unauthorized Use of Vehicles.*

Any person who, without the consent of the owner, shall take, use, operate, or remove, or cause to be taken, used, operated, or removed from a garage, stable, or other building, or from any place or locality on a public or private highway, park, parkway, street, lot, field, inclosure, or space, an automobile or motor vehicle, and operate or drive, or cause the same to be operated or driven, for his own profit, use, or purpose, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding five years, or both such fine and imprisonment.

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ORDERED PRINTED BY THE COMMITTEE.

## House Bill No. 102

[BY MR. PETTIGREW.]

Introduced Jan. 17, 1919. Referred to the Committee on the Judiciary. January 21, ordered printed by the Committee on the Judiciary.

A BILL to amend and re-enact chapter fifteen-j, Barnes' code, one thousand nine hundred and eighteen, and establish in lieu of the West Virginia Humane Society a State Board of Children's Guardians and to define its duties.

*Be it Enacted by the Legislature of West Virginia:*

Section 1. There is hereby created a State Board of Children's Guardians, which shall be a corporation, and as such may contract and be contracted with, plead and be impleaded, sue and be sued, and have and use a common seal. It shall consist of three (3) members chosen from the two largest political parties, who shall be citizens of the state, and not more than two of them shall belong to the same party. They shall be appointed by the governor, by and with the consent of the senate. The members first appointed shall hold office as designated by the governor for two (2), four (4) and six (6) years, respectively, beginning the first day of July, one thousand nine hundred and nineteen, subsequent appointment shall be made as above provided, and, except to fill vacancies, each appointment shall be for a term of six (6) years.

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The board shall biennially choose one of its members to be president thereof. The governor may remove any member for incompetency, neglect of duty, gross immorality, malfeasance in office or for other good causes; and in case of a vacancy occurring by death, resignation, removal or otherwise, may declare the office vacant and fill the same by appointment for the unexpired term. The board shall be provided with an office in the state capitol.

The financial transactions of the board shall be supervised by the state board of control as at the present time. The members of the board shall be paid a per diem of five dollars (\$5.00 for time actually employed or assigned and necessary traveling and hotel expenses.

The board shall hold its annual meeting as soon as practicable after the close of each fiscal year. There shall be four (4) regular meetings per year. No member can be assigned more than five (5) days in any one (1) month.

Sec. 2. The board shall make such by-laws, ordinances, rules and regulations, relative to its management and government not contrary to law as it may deem proper; and shall appoint such officers and agents as it may deem necessary to carry on the operation of said board, designating their duties and fixing their compensation.

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Sec. 3. The board shall make a biennial report to the governor of their transactions generally, and all such facts and

3 matters tending to exhibit the effects either beneficial or otherwise,  
4 of the work, investigations, etc., of the said board.

Sec. 4. It shall be lawful for the board, its officers or agents,  
2 to take or receive into its custody or control, children as herein-  
3 after provided.

4 4-(a) The words "dependent children," as used herein or  
5 in any statute concerning care, custody or control of children,  
6 shall mean any boy under the age of sixteen (16) years or any  
7 girl under the age of eighteen (18) years, who is dependent upon  
8 public charity or who is destitute, homeless or abandoned.

9 4-(b) The words "neglected children," as used herein, shall  
10 mean any boy sixteen (16) years or under or any girl eighteen  
11 (18) years or under who has not proper paternal care or guardian-  
12 ship; or who habitually begs or receives alms, or who is found  
13 living in any house of ill fame, or with any vicious or disrepu-  
14 table persons; or whose home by reason of neglect, cruelty or  
15 disrepute on the part of its parents, guardians or other person or

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16 persons in whose care it may be, is an improper place for a child  
17 to live, or whose environment is such as to warrant the state in  
18 the interest of the child in assuming its guardianship.

19 4-(c) Whenever the board, any members thereof, officers or  
20 agents, or any reputable person shall have probable cause to be-  
21 lieve that a child is dependent, neglected, abandoned or cruelly  
22 treated, said board, member, officers, agents or person may present  
23 a petition setting forth such facts, or any of them, verified by the  
24 oath of some creditable person having a personal knowledge  
25 thereof to the judge of a circuit, common pleas, intermediate or  
26 juvenile court of the county in which said child resides, who may  
27 require such child to be delivered into the custody of said board,  
28 its officers or agents, or such other custody as the judge or court  
29 may deem proper to care for such child until a hearing can be  
30 had, and sufficient notice of the time and place of such hearing  
31 shall be served upon the person from whose custody said child was  
32 taken, or who is sought to be deprived of the custody of said  
33 child, and any parent or other persons legally entitled to stand in  
34 *loco parentis* or other relative of such child may appear at such  
35 hearing; and notice shall also be given to the agent of the board  
36 of children's guardians in the county where said hearing is to be  
37 held.

38 If the facts set forth in said petition shall on the hearing be  
39 maintained, and it shall appear to the judge or court that the  
40 interest and welfare of such child require the custody thereof to  
41 be changed, the judge or court shall order the custody to be  
42 changed, and may order that the child be committed to the care  
43 of said board, its officers or agents. No child may be committed  
44 to the board of children's guardians who is not mentally normal  
45 and all such children committed to the board shall first receive a  
46 physical and medical examination based upon blank forms to be  
47 provided by said board. All information possible regarding the  
48 history of the child, its parents and forebears shall be supplied by  
49 the court to the board at the time of its commitment, on blank  
50 forms to be provided by the said board, to enable the board to deal  
51 intelligently with the child and eventually provide to said child  
52 with such information as is deemed advisable by the said board.  
53 All such information shall be kept by the board in permanent  
54 form and shall be in the custody of the secretary of said board.  
55 Such records shall be open to inspection only by permission  
56 granted by said board.

57 4-(d) All costs necessary in a hearing or commitment under

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58 this section shall be a proper charge against the county in which  
59 the hearing is held, and shall be paid by the county court thereof  
60 upon order of the court in which such hearing is held. The fees  
61 allowed for such hearings shall be the same as are allowed in pro-  
62 ceedings for the commitment of boys to the West Virginia indus-  
63 trial school for boys.

64 4-(e) Whenever application is made to the board of chil-  
65 dren's guardians its officers or agents to accept the care and cus-  
66 tody of children as hereinbefore provided, said board, its officers  
67 or agents shall make a careful and thorough investigation, and,  
68 if it is found that it is a case of a poor but otherwise worthy  
69 parent or guardian, the board may upon application to the judge  
70 of the circuit court, secure an order requiring the county court  
71 to provide maintenance for said parent and children, which main-  
72 tenance shall be furnished under the mothers' pension act or  
73 otherwise.

74 4-(f) This act shall be liberally construed to the end that  
75 proper guardianship may be provided for such children as are  
76 hereinbefore described, and that said children may be educated,  
77 and cared for, as far as practicable, in such a manner as best

78 subserves their moral, intellectual and physical welfare, and as  
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79 far as practicable in proper cases that the parent or person having  
80 such children in their care, custody or control may be enabled and  
81 compelled to perform their moral and legal duty in the interests  
82 of such children.

83 4-(g) All children declared public wards under the pro-  
84 visions of this act shall remain public wards until they reach the  
85 age of twenty-one (21) years, unless they shall be returned to  
86 their parents or guardian by said board on evidence that said  
87 parents or guardian are qualified to care for them properly, or  
88 unless they shall be adopted in the manner prescribed by law.

Sec. 5. If the court shall find any male or female child under  
2 the age of eighteen years to be dependent or neglected within the  
3 meaning of this act, the court may allow such child to remain at  
4 its own home subject to the friendly visitation of probation officer  
5 or to report to the court or probation officer from its home or  
6 school at such times as the court may require. And if the parents,  
7 guardian or custodian consent thereto, or if the court shall fur-  
8 ther find that the parents, parent, guardian or custodian of such  
9 child are unfit or improper guardians or are unable or unwilling  
10 to care for, protect, train, educate in accordance with the general  
11 school law of the state, correct or discipline such child and that

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12 it is for the interest of such child and of the people of this state  
13 that such child be taken from the custody of its parents, parent,  
14 custodian or guardian, the court may make an order appointing as  
15 guardian of the person of such child some reputable citizen of  
16 good moral character and order such guardian to place such child  
17 in some suitable family home or other suitable place, which such  
18 guardian may provide for such child, or the court may enter an  
19 order committing such child to some suitable state institution,  
20 organized for the care of dependent or neglected children, or to  
21 some training school or industrial or children's home-finding so-  
22 ciety or to some association embracing in its object the purpose  
23 of caring for or obtaining homes for neglected or dependent  
24 children, which association shall have been accredited as herein-  
25 after provided.

Sec. 6. In every case where such child is committed to an  
2 institution, or association, the court shall appoint the president,  
3 secretary or superintendent of such institution or association,

4 guardian over the person of such child and shall order such guar-  
5 dian to place such child in such institution or with such associa-  
6 tion, whereof he is such officer, and to hold such child, care for,  
7 train and educate it subject to the rules and laws that may be in  
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8 force from time to time governing such institution or association.

Sec. 7. All children surrendered to the care or committed  
2 to the custody of such board shall be under its supervision and  
3 control in the manner herein provided, until they are received  
4 into an orphan asylum or children's home, or other suitable home  
5 as hereinafter provided, or until otherwise ordered by the said  
6 circuit, intermediate, common pleas or juvenile court in session  
7 or judge thereof sitting in vacation. Any person who shall either  
8 personally or by agent entice or attempt to entice away a child  
9 from the custody of such trustees or directors, or who shall by  
10 threats, menace or force, deprive or attempt to deprive the board,  
11 its officers or agents, of the custody of a child, shall be guilty of  
12 a misdemeanor, and shall be fined not less than ten nor more than  
13 one hundred dollars, and may at the discretion of the court be  
14 imprisoned in the county jail not less than one nor more than six  
15 months. Justices of the peace shall have concurrent jurisdiction  
16 with the circuit, criminal and intermediate courts, in the trial of  
17 such offenses.

Sec. 8. Said board may place any of said children in any  
2 orphan asylum or children's home, incorporated under the laws  
3 of the state of West Virginia and approved by said board, and it

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4 shall be lawful for any orphan asylum or children's home to re-  
5 ceive from said board, its officers or agents, any such children.  
6 As to any child or children so received, such orphan asylum or  
7 children's home shall have the same rights, powers, privileges and  
8 authority, and be subject to the same duties, requirements and  
9 responsibilities as in the case of children placed under its care  
10 and management in any of the modes now allowed by law.

Sec. 9. Said board may, when in its discretion it shall appear  
2 proper, place any of said children in suitable homes, and, in such  
3 case, the said board and the person or persons with whom said  
4 child or children are placed, shall observe and be governed by all  
5 the provisions of the laws of this state in the case of children  
6 placed in homes by the directors or trustees of any orphan asylum  
7 or children's home.

Sec. 10. The said board shall upon the request of the superintendent of the West Virginia industrial home for girls, or the West Virginia industrial school for boys, make investigations and reports to such superintendents on youths paroled from either of those schools or on the homes to which youths from either of them are about to be paroled. It shall also provide for visitation, H. B. No. 102]

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inspection and reports on homes in which wards of the West Virginia colored orphans' home are placed.

Sec. 11. All institutions or associations receiving children under this act, shall be subject to visitation, inspection and supervision by the state board of children's guardians, and it shall be the duty of said state board of children's guardians to pass annually upon the fitness of every such association as may receive, or desire to receive, children under the supervision of this act, and every such association shall make report thereto, showing its condition, management and competency to adequately care for such children as are or may be committed to it, and such other facts as said board may require, annually at such time as the said board of children's guardians may direct; and upon said board being satisfied that such association or institution is competent, and has adequate facilities to care for such children, the board shall issue to the same a certificate to that effect, which certificate shall continue in force for one year, unless sooner revoked by said board, and no child shall be committed to any such institution or association which shall not have received such certificate within eighteen months next preceding the commitment. The court may, at any time, require from any association receiving or desiring to

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receive children under the provisions of this act, such reports, information and statements as the judge shall deem proper or necessary for his action, and the court shall in no case be required to commit a child to any institution or association whose standing, conduct, care of children, or ability to care for the same is not satisfactory to the court.

On the basis of its investigations and of the reports submitted to it, the board may offer to the officials in charge or to those in control of eleemosynary, charitable and correctional institutions included in this act and to those dispensing relief funds, such suggestions as in its judgment it shall deem expedient; and is authorized to institute proceedings for the revocation of char-



ters of such institutions, organizations or societies as wilfully fail to enforce within a reasonable length of time such standards of work as are suggested by said board. All proceedings under this section shall be included by the board in its biennial report to the governor.

Sec. 12. No association whose objects embrace the caring for dependent, neglected or delinquent children shall hereafter be incorporated unless the proposed articles of incorporation shall first have been submitted to the examination of the state board  
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of children's guardians and the secretary of state shall not issue a certificate of incorporation unless there shall first be filed in his office the certificate of said board that the said board has examined the said articles of incorporation, and that, in their judgment, the incorporators are reputable, reliable and responsible persons, that the proposed work is needed and that the incorporation of such association is desirable for the public good and the welfare of dependent and neglected children. Any amendment proposed to the articles of incorporation of any such association now existing or hereafter created shall be submitted in like manner to the state board of children's guardians and the secretary of state shall not record such amendment or issue his certificate therefor unless there shall be filed in his office the certificate of said board of children's guardians that the said board has examined the said amendment and that the association in question is, in the judgment of said board, performing in good faith the work undertaken by it, and that the said amendment is, in the judgment of the executive officer, a proper one and for the public good, and in the interest of neglected and dependent children.

Nothing contained in this act shall apply to corporations or organizations now or hereafter existing under and by virtue of

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chapter fifty-seven, Barnes' code of West Virginia, one thousand nine hundred and eighteen.

Sec. 13. Whenever a petition filed as provided in section four hereof, or a supplemental petition filed at any time after the appointment of the guardian, shall pray that the guardian appointed or to be appointed shall be authorized to consent to the legal adoption of the child, and the court upon the hearing shall find that it is to the best interests of such child that the guardian be given such authority, the court may, in its order appointing such

7 guardian, empower him to appear in court where any proceed-  
8 ings for the adoption of such child may be pending, and to consent  
9 to such adoption. Such consent shall be sufficient to authorize  
10 the court where the adoption proceedings are pending to enter a  
11 proper order or decree of adoption without further notice to, or  
12 consent by, the parents or relatives of such child; *provided, how-*  
13 *ever,* that before entering such order the court shall find from the  
14 evidence that (1) the parents or surviving parent of a legitimate  
15 child or the mother of an illegitimate child, or if the child has no  
16 parents living, the guardian of the child, if any, or if there is no  
17 parent living, and the child has no guardian or the guardian is  
18 not known to petitioner, then a known near relative of the child,  
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19 if any there be, consents to such order; or (2) that one parent  
20 consents and the other is unfit for any of the reasons hereinafter  
21 specified to have the child, or that both parents are or that the  
22 surviving parent is so unfit, or that the mother of an illegitimate  
23 child is so unfit for any such reasons—the grounds of unfitness  
24 being (a) depravity, (b) open and notorious adultery or fornica-  
25 tion, (c) habitual drunkenness for the space of one year prior to  
26 the filing of petition, (d) extreme and repeated cruelty to the  
27 child, (e) abandonment of child or (f) desertion of the child for  
28 more than six months next preceding the filing of the petition;  
29 and (3) that such child, if of the age of fourteen years or over,  
30 consents to such order.

Sec. 14. No association which is incorporated under the laws  
2 of any other state than the state of West Virginia shall place any  
3 child in any family home within the boundaries of the state of  
4 West Virginia either with or without indenture or for adoption,  
5 unless the said association shall have furnished the state board  
6 of children's guardians with such guaranty as they may require  
7 that no child shall be brought into the state of West Virginia by  
8 such society or its agents, having any contagious or incurable  
9 disease, or having any deformity, or being of feeble mind, or of  
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10 vicious character, and that said association shall promptly receive  
11 and remove from the state any child brought into the state of  
12 West Virginia by its agent, which shall become a public charge  
13 within the period of five years after being brought into this state.  
14 Any person who shall receive to be placed in a home, or shall place  
15 in a home, any child in behalf of any association incorporated in

16 any other state than the state of West Virginia, which shall not  
17 have complied with the requirements of this act, shall be impris-  
18 oned in the county jail not more than thirty days, or fined not  
19 less than five dollars nor more than one hundred dollars, or both,  
20 in the discretion of the court.

Sec. 15. The court in committing children shall place them  
2 as far as practicable in the care and custody of some individual  
3 holding the same religious belief as the parents of said child, or  
4 with some associations which is enrolled by persons of like re-  
5 ligious faith with that of the parents of said child.

Sec. 16. If it shall appear upon the hearing of the case that  
2 the parents, parent, or any person or persons named in such  
3 petition who are in law liable for the support of such child, are  
4 able to contribute to the support of such child, the court or judge  
5 shall enter an order requiring such parents, parent or other per-  
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6 son to pay to the guardian so appointed or to the institutions,  
7 association, society or person to whom such child may be com-  
8 mitted, a reasonable sum from time to time for the support,  
9 maintenance or education of such child, and the court or judge  
10 may order such parents, parent or other person to pay to the  
11 guardian so appointed or to the institution, association, society or  
12 person, to which such child may be committed, a reasonable sum  
13 from time to time for the support, maintenance or education of  
14 such child, and the court or judge may order such parents, parent  
15 or other persons to give reasonable security for the payment of  
16 such sum or sums, and upon failure to pay, the court or judge  
17 may enforce obedience to such order by proceeding as for con-  
18 tempt of court. The court or judge may, on application and on  
19 such notice as the court or judge may direct from time to time,  
20 make such alterations in the allowance as shall appear reasonable  
21 and proper.

Sec. 17. If the person so ordered to pay for the support,  
2 maintenance or education of a dependent, neglected child shall  
3 be employed for wages, salary or commission, the court or judge  
4 may also order that the sum to be paid to him shall be paid to  
5 the guardian or institution, society, association, or person having

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6 custody of such child, out of his wages, salary or commission and  
7 that he shall execute an assignment thereof *pro tanto*. The court  
8 or judge may also order the parent or the person so ordered to

9 pay the sum of money for the support, maintenance or education  
 10 of a child, from time to time to make discovery to the court or  
 11 judge as to his place of employment, and amount earned by him.  
 12 Upon his failure to obey the order of court or judge he may be  
 13 punished as for contempt of court.

Sec. 18. Nothing in this act shall be construed to give the  
 2 guardian appointed under this act the guardianship of the estate  
 3 of the child or to change the age of minority for any other purpose  
 4 except the custody of the child.

Sec. 19. Any person who shall by any act cause, encourage  
 2 or contribute to the dependency of a child, as these terms with  
 3 reference to children are defined by the statutes of this state, or  
 4 who shall for any cause be responsible therefor, shall be guilty of  
 5 a misdemeanor, and upon trial and conviction thereof, shall be  
 6 fined in a sum not to exceed five hundred dollars or imprisoned  
 7 in the county jail for a period not exceeding one year, or by both  
 8 such fine and imprisonment.

Sec. 20. The court may permit any child to remain in the  
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2 custody of the person found guilty by this act of contributing to  
 3 its dependency, under such suspended sentence, upon such con-  
 4 ditions for the treatment and care of such child as may seem to  
 5 the court to be for its welfare, or as may be calculated to secure  
 6 abedience to the law or to remove the cause of such dependency  
 7 or neglect, and while such conditions are accepted and complied  
 8 with by any such person, such sentence may remain suspended  
 9 subject to be enforced upon the violation of any of the conditions  
 10 imposed by the court; and such bond may be forfeited upon a  
 11 failure to comply with any such conditions, as well as upon the  
 12 failure to pay any amount required for the maintenance of such  
 13 child.

Sec. 21. In order to find any person guilty of violating this  
 2 act it shall not be necessary to prove that the child has actually  
 3 become dependent; *provided*, it appears from the evidence that  
 4 through any act of neglect or omission of duty or by the improper  
 5 conduct on the part of any such person the dependency of any  
 6 child may have been caused or merely encouraged.

Sec. 22. The said board shall gather statistics and study the  
 2 problems connected with dependent and defective children and  
 3 publish from time to time, stating the results of such study. It

4 shall also make available, as far as practicable, to officials dealing  
5 with these problems and with the said classes, such literature as  
6 shall tend to increase their efficiency.

Sec. 23. This act shall become effective July first, one thou-  
2 sand nine hundred and nineteen.

Sec. 24. All acts or parts of acts inconsistent with this act,  
2 or any part thereof are hereby repealed.

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ENGROSSED

## House Bill No. 123

[BY MR. CALHOUN.]

A BILL to amend and re-enact section twenty-two, of chapter sixty-  
six, of the acts of the legislature of one thousand nine hundred  
and seventeen, relating to public highways and bridges, so as  
to authorize county courts to lay a special county bridge levy  
not to exceed twenty cents on each one hundred dollars of valua-  
tion of the taxable property of the county.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-two, of chapter sixty-six, of the acts of the  
legislature of one thousand nine hundred and seventeen be amended  
and re-enacted so as to read as follows:

Section 22. In addition to the general county and district  
2 levy, the county court may lay a county road levy not to exceed  
3 twenty-five cents on each one hundred dollars assessed valuation  
4 of all taxable property in the county, the proceeds of which shall  
5 be known as the "county road fund" and shall be expended only  
6 for the construction, improvement and maintenance of the "main  
7 county roads" and for the construction and maintenance of the

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8 bridges thereon after said roads are properly located; *provided*,  
9 that the proceeds from said levy shall be expended under the  
10 authority and direction of the county court, except where state  
11 or federal aid is extended under the provisions of this act, when  
12 the expenditures of said proceeds shall be under the direction  
13 of the state road commission. In case of calamity, such as floods  
14 and the like, which shall result in unusual damage, or the wash-  
15 ing away of bridges or roads, the county court of any county,  
16 with the written approval of the state tax commissioner and the

17 state road commission, may lay a special emergency levy in ex-  
18 cess of the special levy hereinbefore provided, not to exceed ten  
19 cents on each one hundred dollars assessed valuation of the tax-  
20 able property of the county for such year or years as may be  
21 named in such approval; but in no case shall the combined special  
22 road levy and emergency levy exceed thirty-five cents on each one  
23 hundred dollars valuation of the taxable property of the county;  
24 *provided*, that in any county where the county court has already  
25 subscribed for or purchased, or contracted to purchase the whole  
26 or a portion only of the stock or bonds, or both, of any bridge  
27 or road company, the county court, for the purpose of carrying  
28 into effect such contract or option, may lay any levy or levies  
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29 provided for by law before this act takes effect; and *provided*,  
30 *further*, that if in any one year the county road levy herein  
31 authorized produces a revenue in excess of the amount necessary  
32 to be expended on the main county roads, such excess may by  
33 the court be applied to the construction or repair of any of the  
34 important district roads, or roads in "Class B;" *provided, further*,  
35 that the county court and county having no debt, bonded or  
36 funded, or otherwise, may lay alevy in addition to the maximum  
37 levy and other special levies provided for, not exceeding twenty  
38 cents of each one hundred dollars of valuation on the taxable  
39 property of the county, to be called a special bridge levy, for the  
40 purpose of building and repairing bridges, and the fund arising  
41 from such bridge levy shall be used for the purpose herein desig-  
42 nated and no other.

Section 28-b. That in any case where the issuance of bonds  
2 has been authorized by a vote of the people of any county, dis-  
3 trict or districts, pursuant to chapter sixty-six of the acts of the  
4 legislature of one thousand nine hundred and seventeen, for the  
5 purpose of permanently improving roads therein, and in the  
6 order or proceedings submitting to the voters the question of the  
7 issuance of said bonds, such permanent improvements shall have

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8 been prescribed or specified to be made by the use of any one  
9 particular material authorized by law, and the county court of  
10 the county may deem it expedient that the proposed permanent  
11 improvements be made by the use of some other material author-  
12 ized by law, to-wit: by the use of asphaltum, brick, concrete,  
13 macadam, stone-block or other process of equal merit; such

14 county court shall upon the petition of twenty-five per cent of  
15 the legal voters within the magisterial district or in each of two  
16 or more magisterial districts in which such improvement is  
17 located, or in such county, as provided in said section twenty-six,  
18 submit to the voters of the county or the district or districts to be  
19 affected, the question of permitting such permanent improve-  
20 ment to be made by the use of any of the materials aforesaid.  
21 Such question shall be submitted to the voters within sixty days  
22 after such petition shall have been filed with the county court,  
23 and the election thereupon held in the manner provided for  
24 elections held pursuant to said sections twenty-six, twenty-seven  
25 and twenty-eight of said chapter sixty-six; and if a majority of  
26 the voters of such county, district or districts, who shall vote upon  
27 the question, shall vote in favor of such proposed change in the  
28 material and specifications for constructing said roads, the said  
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29 county court shall be authorized to make said change and to  
30 construct such permanent improvements with any of the ma-  
31 terials prescribed by law, to the same extent and with the same  
32 effect as if such material had been originally specified for such  
33 improvements.

34 That in any case where the issuance of bonds has been  
35 authorized by a vote of the people of any county or district, pur-  
36 suant to said sections twenty-six, twenty-seven and twenty-eight  
37 of said chapter sixty-six, for the purpose of permanently improv-  
38 ing public roads therein; and in the order of proceedings sub-  
39 mitting to the voters the question of granting authority for the  
40 issuance of such bonds, the locations of roads to be improved have  
41 been definitely fixed within certain limits, any of which do not  
42 appear well adapted to the use of the general public or do not  
43 appear as practical locations for public roads because of grades, cost  
44 of maintenance or for any other good and sufficient reason, and  
45 the county court shall deem it expedient to have such permanent  
46 improvements, or a part thereof, placed upon roads of more prac-  
47 tical location, within such county, district or districts, it shall  
48 upon the petition of twenty-five per cent of the legal voters within  
49 such district or in each of two or more magisterial districts in

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50 which such improvement is located, or in such county, as the  
51 case may be, to be ascertained as set out in section twenty-six,  
52 submit to the voters of the county or district or districts, the

53 question of changing the original plan for such permanent im-  
54 provements and placing all or any part thereof on roads of  
55 different and more practical location within the county or dis-  
56 trict, the roads to be improved to be described in the order sub-  
57 mitting this question to the voters. Such question shall be sub-  
58 mitted to the voters of the county, district or districts, as the  
59 case may be, within sixty days after the filing of the petition with  
60 the clerk of the county court; and the election thereupon held in  
61 the manner provided for elections held pursuant to said sections  
62 twenty-six, twenty-seven and twenty-eight of said chapter sixty-  
63 six, acts of one thousand nine hundred and seventeen; and if  
64 three-fifths of the voters of such county, district or districts, who  
65 shall vote upon the question, shall vote in favor of such change  
66 the county court shall be authorized to make such change and to  
67 place the permanent improvements on the roads designated in  
68 the order and proceedings submitting the question of a change  
69 of location to the voters.

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## House Bill No- 113

[BY MR. RICHARDS]

Introduced Jan. 17, 1919. Referred to the Committee on Judiciary, Jan. 22, reported back with the recommendation that it do pass; Jan. 23, coming up in regular order for consideration was read a first time and ordered to its second reading.

A BILL to amend and re-enact section twenty-seven-b of chapter one hundred and forty-five of the code of West Virginia.

*Be it Enacted by the Legislature of West Virginia:*

Section 27-b. A mortgagor of personal property or a grantor  
2 in a deed of trust conveying personal property, in possession of the  
3 same or any person in possession of personal property to which title  
4 has been reserved by the grantor according to the terms and pro-  
5 visions of section three of chapter seventy-four of the code of West  
6 Virginia; who *with*, the consent of the owner of the claim secured  
7 by such mortgage or deed of trust, or the owner of the property to  
8 which title has been reserved, removes or causes to be removed any  
9 of the property mortgaged or covered by such deed of trust or to  
10 which title has been reserved, out of the county where it was situ-  
11 ated at the time it was mortgaged or conveyed by deed of trust or  
12 at the time the title was reserved, or with intent to defraud, delay



13 or hinder the owner of the claim secured by the mortgage or deed  
 14 of trust or the owner of the property to which title has been re-  
 15 served, secretes or sells the same or converts the same to his own

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16 use shall be guilty of a misdemeanor and shall, on conviction there-  
 17 of, be fined not more than five hundred dollars and imprisoned not  
 18 more than six months or both.

Sec. 2. All acts or parts of acts inconsistent with this act are  
 2 hereby repealed.

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ORDERED PRINTED BY THE HOUSE OF DELEGATES.

## House Bill No. 36

[BY MR. PETTIGREW.]

Introduced January 13, 1919. Referred to the Committee of the  
 Judiciary; January 21, ordered printed by the Committee on the Ju-  
 diciary.

A BILL to amend and re-enact chapter forty-six-a of the code of West  
 Virginia, (Barnes' one thousand nine hundred and eighteen), re-  
 lating to the care and disposition of delinquent children.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Definitions: Children as wards of state; use of  
 2 evidence against child. That all persons under the age of twen-  
 3 ty-one years, shall for the purpose of this act only, be considered  
 4 wards of this state and their persons shall be subject to the care,  
 5 guardianship and control of the court as hereinafter provided.

6 The words "delinquent child" shall mean any male or fe-  
 7 male child who, while under the age of eighteen years, violates  
 8 any law of this state; or is incorrigible or knowingly associates  
 9 with thieves, vicious or immoral persons; or without just cause and  
 10 without the consent of its parents, guardian or custodian absents  
 11 himself from its home or place of abode, or is growing up in idle-  
 12 ness or crime; or knowingly frequents or visits a house of ill-repute;  
 13 or knowingly frequents or visits any policy shop or place where any  
 14 gaming device is operated; or patronizes or visits any public pool-

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15 room where the game of pool or billiards is being carried on for  
 16 pay or hire; or who wanders about the streets in the night time  
 17 without being on any lawful business or lawful occupation; or

18 who habitually wanders about any railroad yards or tracks or who  
19 jumps, or attempts to jump, on any moving train; or who enters  
20 any car or engine without lawful authority; or who writes or uses  
21 vile, obscene, vulgar, profane or indecent language; or who is  
22 guilty of indecent, immoral or lascivious conduct. Any child com-  
23 mitting any of these acts shall be deemed a delinquent child and  
24 when proceeded against such proceedings shall be on behalf of the  
25 state, in the interest of the child and the state, with due regard to  
26 the rights and duties of parents and others, by petition to be filed  
27 by any reputable person and to that end the child shall be dealt  
28 with, protected and cared for in any circuit or other court having  
29 chancery jurisdiction, as a ward of the state in the manner here-  
30 inafter provided.

31 A deposition of any child under this act of any evidence given  
32 in such cause, shall not, in any civil, criminal or other cause or  
33 proceeding whatever in any court, be lawful or proper evidence  
34 against such child for any purpose whatever, except in subsequent  
35 cases against the same child under this act; nor shall the name  
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36 of any child in connection with any proceedings under this act,  
37 be published in any newspaper, without a written order of the  
38 court. The word "child" or "children" may be held to mean one  
39 or more children, and the word "parent" or "parents" may be held  
40 to mean one or both parents, when consistent with the intent of this  
41 act. The word "association" shall include any association, insti-  
42 tution or corporation which includes in its purpose the care or dis-  
43 position of children, coming within the meaning of this act.

Sec 2. Jurisdiction of courts; trial by jury.—The circuit  
2 courts of this state shall have original jurisdiction in all cases  
3 coming within the terms of this act, except that in counties where  
4 a court of common pleas or intermediate court having chancery  
5 jurisdiction has been or may be created, such court shall have ex-  
6 clusive original jurisdiction in all such cases, subject to appeal to  
7 the circuit court of such county; *provided*, that in any county  
8 where there is a criminal court and no court of chancery jurisdic-  
9 tion other than the circuit court, such criminal court, on the law  
10 side thereof, shall have concurrent jurisdiction with such circuit  
11 court as to all cases arising under this act. In all trials under  
12 this act any person interested therein may demand a jury of  
13 twelve persons, or the judge, of his own motion, may order a jury

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14 of the same number to try the case. The powers conferred by this  
15 act upon any court may be exercised by the judge thereof at cham-  
16 bers in vacation.

Sec. 3. Juvenile record; "juvenile court": The findings of  
2 the court shall be entered in a book or books to be kept by the  
3 clerk for that purpose, and known as the "juvenile record" and  
4 the court may for convenience be called the "juvenile court."

Sec. 4. Petition to the court: Any reputable person, being  
2 a resident of the county, may file with the clerk of the court hav-  
3 ing jurisdiction of the matter, a petition in writing setting forth  
4 that a certain child, naming it, within his county, is delinquent as  
5 defined in section one hereof; and that it is for the interest  
6 of the child and this state that the child be taken from its parents,  
7 parent, custodian or guardian and placed under the guardianship  
8 of some suitable person to be appointed by the court; and that the  
9 parents, parent, custodian or guardian of such child are unfit or  
10 improper guardians, or are unable or unwilling to care for, protect,  
11 train, educate, correct, control or discipline such child, or that  
12 the parents, parent, guardian or custodian consent that such child  
13 shall be taken from them. The petition shall also set forth either  
14 the name, or that the name is unknown to the petitioner (a) of the  
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15 person having the custody of such child; and (b) of each of the  
16 parents or the surviving parent of a legitimate child; or of the  
17 mother of an illegitimate child; or (c) if it allege that both such  
18 parents are or that such mother is dead and that no guardian of  
19 such child is known to petitioner, the petition shall set forth such  
20 facts. All persons so named in such petition shall be made de-  
21 fendants by name and shall be notified of such proceedings by  
22 summons, if residents of this state, in the same manner as is now  
23 or may hereafter be required in chancery proceedings by the laws  
24 of this state, except only as herein otherwise provided. All per-  
25 sons, if any, who or whose names are stated in the petition to be  
26 unknown to the petitioner, shall be deemed and taken as defend-  
27 ants by the name and designation of "all whom it may concern."  
28 the petition shall be verified by affidavit, which affidavit shall be  
29 sufficient upon information and belief. Process shall be issued  
30 against all persons made parties by the designation of "all whom it  
31 may concern," by such description, and notice given by publica-  
32 tion as is required in this act shall be sufficient to authorize the

33 court to hear and determine the suit as though the parties had  
34 been sued by their proper names.

Sec. 5. Summons, publication, answer, warrant, hearing:

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2 The summons shall require the person alleged to have the custody  
3 of such child to appear with the child at the time and place stated  
4 in the summons; and shall also require all defendants to appear  
5 and answer the petition on the return day of the summons. The  
6 summons shall be made returnable at any time within twenty  
7 days after the date thereof to the court or the judge in vacation,  
8 and may be served by the sheriff, or by any duly appointed proba-  
9 tion officer, even though such officer be the petitioner. The re-  
10 turn of such summons, with indorsement of services by the sheriff  
11 or by such probation officer in accordance herewith, shall be suffi-  
12 cient proof thereof.

13 Whenever it shall appear from the petition or from affidavit  
14 filed in the cause that any named defendant resides or has gone out  
15 of the state, or on due inquiry cannot be found, or is concealed  
16 within this state or that his place of residence is unknown so that  
17 process cannot be served on him, or whenever any person is made  
18 defendant under the name or designation of "all whom it may  
19 concern," the clerk shall cause publication to be made twice in  
20 some newspaper of general circulation published in his county, and  
21 if there be none published in his county, then in a newspaper pub-  
22 lished in the nearest place to his county in this state, which shall  
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23 be substantially as follows:

24 A, B, C, D, etc. (here giving the names of such defendant, if  
25 any), and to "all whom it may concern" (if there be any defend-  
26 ant under such designation).

27 Take notice that on the .... day of ....., 19.....,  
28 a petition was filed by ..... in the ..... court  
29 of ..... county to have a certain child, named .....  
30 declared a delinquent and to take from you the custody and guard-  
31 ianship of said child (and if the petition prays for the appointment  
32 of a guardian with power to consent to adoption, and add,) "and  
33 to give said child out for adoption."

34 Now, unless you appear within twenty days after the date of  
35 this notice and show cause against such application, the petition

36 shall be taken for confessed and a decree granted. Dated (the  
37 date of publication).

38

E. F., *Clerk.*

40 And he shall also within ten days after the publication of such  
41 notice send a copy thereof by mail, addressed to such defendants  
42 place of residence is stated in the petition and who shall not have  
43 been served with summons. Notice given by publication as is  
44 required by this act shall be the only publication notice required

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45 either in the case of residents, non-residents or otherwise. The  
46 certificate of the clerk that he has sent such notice in pursuance  
47 of this section shall be evidence thereof. Every defendant who  
48 shall be duly summoned shall be held to appear and answer either  
49 in writing, orally in open court, or to the judge in vacation on the  
50 return day of the summons or if such summons shall be served less  
51 than one day prior to the return day, then on the following day.  
52 Every defendant who shall be notified by publication as herein pro-  
53 vided shall be held to appear and answer either in writing or orally  
54 in open court or to the judge in vacation within twenty days after  
55 the date of the publication notice. The answer shall have no  
56 greater weight as evidence than the petition.

57 In default of an answer at the time or times herein specified  
58 or at such further times as by order of court or the judge in vaca-  
59 tion may be granted to a defendant, the petition may be taken as  
60 confessed.

61 If the person having the custody or control of the child shall  
62 fail without reasonable cause to bring the child into court or be-  
63 fore the judge in vacation, he may be proceeded against as in the  
64 case of contempt of court. In case the summons shall be returned  
65 and not served upon the person having the custody or control of  
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66 such child, or such person fails to obey the same, and in any case  
67 when it shall be made to appear to the court or judge by affidavit,  
68 which may be on information and belief, that such summons will  
69 be ineffectual to secure the presence of the child, a warrant may be  
70 issued on the order of the court or judge either against the parents  
71 or either of them, or the guardian or the person having the custody  
72 or control of the child, or with whom the child may be, or against  
73 the child itself to bring such person into court or before said judge.  
74 On default of the custodian of the child or on his appearance or  
75 answer, or on the appearance in person of the child in court or

76 before said judge with or without the summons or other process  
77 and on the answer, default or appearance or written consent to the  
78 proceedings of the other defendants thereto or as soon thereafter  
79 as may be, the court or judge shall proceed to hear evidence. The  
80 court or judge may, in any case when the child is not represented  
81 by any person, appoint some suitable person to act on behalf of the  
82 child. At any time after the filing of the petition and pending the  
83 final disposition of the case, the court or judge may continue the  
84 hearing from time to time and may allow such child to remain in  
85 the possession of its custodian or in its own home subject to the  
86 friendly visitation of a probation officer, or it may order such child

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87 to be placed in the custody of a probation officer of the court, or of  
88 any suitable person appointed by the court or judge to be kept in  
89 some suitable place provided by the city or county authorities, but  
90 in no event, except under order of the court or judge, to be held in  
91 the county jail or city lockup.

Sec. 6. Probation officers: The circuit courts and other  
2 inferior courts of the several counties in this state which have  
3 chancery jurisdiction shall have authority to appoint any number  
4 of discrete persons of good moral character to serve as probation  
5 officers during the pleasure of the court; said probation officers to  
6 receive no compensation from the county treasury except as here-  
7 in provided. It shall be the duty of the clerk of the court, if  
8 practicable, to notify the said probation officer when any child  
9 is to be brought before the court, or judge, and it shall be the duty  
10 of such probation officer to make investigation of such case, to be  
11 present in court or before said judge to represent the interests of  
12 the child when the case is heard, to furnish such information and  
13 assistance as the court or judge may require, and to take charge  
14 of any child before and after the trial as may be directed by the  
15 court or judge. The number of probation officers who may re-  
16 ceive compensation from the county, named and designated by the

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17 court, shall be as follows: In counties having a population of  
18 over forty thousand, two probation officers shall be appointed,  
19 who shall each receive a salary of not exceeding twelve hundred  
20 dollars per year, and expenses shall be allowed each probation offi-  
21 cer in a sum not exceeding one hundred dollars per year; in  
22 counties having a population of over fifteen thousand and less  
23 than forty thousand, one probation officer shall be appointed at

24 a salary not to exceed twelve hundred dollars per year, and ex-  
25 penses of probation work shall be allowed by the county in a sum  
26 not to exceed one hundred dollars per year. In all counties of  
27 over fifteen thousand population probation officers receiving com-  
28 pensation from the county shall be appointed by the judge of the  
29 circuit court, or other court having jurisdiction, and the said  
30 salary or expenses shall be paid in monthly installments from the  
31 county treasury. In any county of less than fifteen thousand  
32 population one probation officer, at a salary of not to exceed six  
33 hundred dollars per year, to be paid as provided for probation  
34 officers in other counties, shall be appointed by the circuit judge  
35-36 or judge of inferior courts having jurisdiction whenever in the  
37 opinion of the judge, the county superintendent of schools and  
38 a majority of the board of county commissioners of such county

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39 it shall be necessary so to care for the delinquent children of the  
40 county. The county superintendent of schools and the county  
41 commissioners in their respective counties shall constitute a board  
42 to investigate the competency of any person appointed to act as  
43 a probation officer whenever such probation officer is to receive  
44 from the county a salary or other compensation provided for  
45 under this act. Any judge appointing such probation officer  
46 shall transmit such appointment to such board of the county in  
47 which such appointment is made, and it shall be the duty of a  
48 majority of said board to approve or disapprove of such appointee,  
49 within thirty days after submission thereof by the said judge, and  
50 a failure to act thereon within such time shall constitute an ap-  
51 proval of such appointment; if a majority of such board are of  
52 the opinion that such appointee does not possess the qualifications  
53 for a probation officer, they shall notify the judge of their con-  
54 clusions within thirty days from the submission of such appoint-  
55 ment to the respective members thereof, whereupon it shall be the  
56 duty of the judge to withdraw such appointment and appoint  
57 someone who shall receive the approval of said board. The court  
58 or judge having jurisdiction may apportion the allowance to pro-  
59 bation officers between any two or more of them, but not exceeding

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60 the total amount fixed herein as may be deemed best.  
61 Probation officers receiving a salary or other compensation  
62 from the county, provided for by this act, are hereby vested with  
63 all the power and authority of police or sheriffs to make arrests and

64 perform any other duties ordinarily required by policemen and  
65 sheriffs which may be incident to their office or necessary or con-  
66 venient to the performance of the duties; *provided*, that other  
67 probation officers may be vested with like power and authority  
68 upon written certificate from the judge that they are persons of  
69 discretion and good character, and that it is the desire of the  
70 court to vest them with all the power and authority conferred by  
71 law upon probation officers receiving compensation from the  
72 county.

73 In counties of over forty thousand population, whenever in  
74 the opinion of the judge, the board of county commissioners, and  
75 the superintendent of schools, additional probation officers to  
76 those allowed by law are necessary for the care of the delinquent  
77 children, not to exceed two assistant probation officers, in ad-  
78 dition to the ones provided for herein, may be appointed in the  
79 manner provided by this act, at a salary not to exceed twelve  
80 hundred dollars per year.

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81 Salaries or compensation of paid probation officers permit-  
82 ted by this act shall be fixed by the judge, not to exceed the  
83 sums herein provided for, shall be certified to by the judge as  
84 being necessary in and about the performance of the duties of  
85 probation officer or officers. The appointment of probation  
86 officers and the approval thereof as to the qualification of such  
87 officers by the board herein designated, shall be filed in the office  
88 of the clerk of the court. Probation officers shall take oath such  
89 as may be required of other county officers to perform their du-  
90 ties and file it in the office of the clerk of the court, by which  
91 they have been appointed.

92 Nothing herein contained, however, shall be held to limit or  
93 abridge the power of the judge to appoint any number of persons  
94 as probation officers, whom said judge may see fit to appoint and  
95 who may be willing to serve without pay from the county for  
96 such services as probation officers.

Sec. 7. Disposition of delinquent children; guardianship:

2 If the court shall find any male or female child under the age of  
3 eighteen years to be delinquent within the meaning of this act, the  
4 court may allow such child to remain at its own home subject to  
5 the friendly visitation of a probation officer, such child to report

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6 to the court or probation officer with such record of its conduct in



7 its home or school as the court may require, as often as may be  
8 required, and if the parents, parent, guardian or custodian con-  
9 sent thereto, or if the court shall further find either that the  
10 parents, parent, guardian or custodian consent thereto, or if the  
11 court shall further find either that the parents, parent, guardian or  
12 custodian are unfit or improper guardians or are unable or unwill-  
13 ing to care for, protect, educate or discipline such child, and shall  
14 further find that it is for the interest of such child and of the  
15 people of this state that such child be taken from the custody of its  
16 parents, parent, guardian or custodian, the court may appoint  
17 some proper person or probation officer, guardian over the person  
18 of such child and permit it to remain at its home, or order such  
19 guardian to cause such child to be placed in a suitable family  
20 home, or cause it to be boarded out in some suitable family home,  
21 in case provision is made by voluntary contribution or otherwise  
22 for the payment of the board; or the court may commit such child  
23 to any institution incorporated under the laws of this state to care  
24 for delinquent children, or to any institution that has been or may  
25 be provided by the state, county, city, town or village suitable for  
26 the care of delinquent children, including a detention home or

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27 school, or to some association that will receive it, embracing in its  
28 objects the care of delinquent children and which has been duly ac-  
29 credited as hereinafter provided. In every case where such child  
30 is committed to an institution or association, the court shall ap-  
31 point the president, secretary or superintendent of such institu-  
32 tion or association, guardian over the person of such child and  
33 shall order such guardian to place such child in such institution or  
34 with such association, whereof he is such officer, and to hold such  
25 child, care for, train and educate it subject to the rules and laws  
26 that may be in force from time to time governing such institution  
27 or association.

Sec. 8. Return to home on probation: Whenever it shall  
2 appear to the court, before or after the appointment of a guardian  
3 under this act, or after commitment to any institution or associ-  
4 ation, that the home of a child or of its parents, former guardian  
5 or custodian is a suitable place for such child, or that such child  
6 could be permitted to remain or ordered to be returned to said  
7 home consistent with the public good and the good of such child,  
8 the court may enter an order to that effect returning such child to  
9 its home on probation, parole or otherwise; it being the intention

10 of his act that no child shall be taken away or kept from its home  
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11 or away from its parents and guardian any longer than is neces-  
12 sary to preserve the welfare of such child and the interest of this  
13 state; *provided, however*, that no such order shall be entered with-  
14 out first giving ten days' notice to the guardian, institution or as-  
15 sociation to whose care such child has been committed, unless such  
16 guardian, institution or association consents to such order.

Sec. 9. Criminal prosecutions: The court may in its dis-  
2 cretion in any case of a delinquent child permit such child to be  
3 proceeded against in accordance with the laws that may be in  
4 force in this state governing the commission of crimes or violation  
5 of city, village, or town ordinances; in such case the petition filed  
6 under this act shall be dismissed.

Sec. 10. Placing child in hospital: The court may, when  
2 the health or condition of any child found to be delinquent, re-  
3 quires it, order the guardian to cause such child to be placed  
4 in a public hospital or institution for treatment or special care, or  
5 in a private hospital or institution, which will receive it for like  
6 purposes, without charge to the public authorities.

Sec. 11. Authority of guardian or custodian; duration of  
2 guardianship: Any child found to be delinquent as defined in  
3 this act, and awarded by the court to a guardian, institution or as-

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4 sociation, shall be held by such guardian, institution or association,  
5 as the case may be, by virtue of the order entered of record in such  
6 case, and the clerk of the circuit court shall issue and cause to be  
7 delivered to such guardian, institution or association a certified  
8 copy of such order of the court, which certified copy of such order  
9 shall be proof of the authority of such guardian, institution or as-  
10 sociation in behalf of such child, and no other process need issue to  
11 warrant the keeping of such child. The guardianship under this  
12 act shall continue until the court shall by further order otherwise  
13 direct, but not after such child shall have reached the age of twen-  
14 ty-one years.

Sec. 12. Report of guardian or institution; removal: The  
2 court may, from time to time, cite into court the guardian, institu-  
3 tion or association to whose care a delinquent child has been award-  
4 ed, and require him or it to make a full, true and perfect report as  
5 to his or its doings in behalf of such child; and it shall be the duty  
6 of such guardian, institution or association within ten days after

7 such citation, to make such report either verified by affidavit, or  
8 verbally under oath in open court, or otherwise as the court shall  
9 direct; and upon the hearing of such report, with or without fur-  
10 ther evidence, the court may, if it sees fit, remove such guardian  
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11 appoint another in his stead, or take such child away from such in-  
12 stitution or association and place it in another, or restore such  
13 child to the custody of its parents or former guardian or custodian.

Sec. 13. Transfer from justice or police magistrate: When  
2 in any county where a court is held as provided in section two of  
3 this act, a male or female child under the age of eighteen years is  
4 arrested with or without warrant such child may, instead of being  
5 taken before a justice of the peace or police magistrate, be taken  
6 directly before such court or the judge in vacation; or if the child  
7 is taken before a justice of the peace or police magistrate, such jus-  
8 tice or magistrate shall inquire into such case, and unless he be of  
9 the opinion that no sufficient foundation exists for the charge of  
10 delinquency, it shall be the duty of such justice of the peace or po-  
11 lice magistrate to transfer the child to the circuit or other court,  
12 having jurisdiction, and it shall be the duty of the officer having  
13 the child in charge to take the child before such court or the judge  
14 in vacation, and in any case the court or judge may proceed to  
15 hear and dispose of the case in the same manner as if the child  
16 had been brought before the court or judge upon petition as here-  
17 in provided. In any case, the court or judge shall require notice  
18 to be given and investigation to be made as in other cases under

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19 this act, and may adjourn the hearing from time to time for that  
20 purpose.

Sec. 14. Confinement; bail; counsel: No court or mag-  
2 istrate shall commit a child under fourteen years of age to a jail or  
3 police station; but if such child is unable to give bail it may be  
4 committed to the care of the sheriff, police officer or probation of-  
5 ficer, who shall keep such child in some suitable place provided by  
6 the city or county outside of the enclosure of any jail or police sta-  
7 tion. When any child shall be confined in any institution in  
8 which adult prisoners or convicts are confined, it shall be unlawful  
9 to confine such child in the same building with such adult prison-  
10 ers or convicts or to confine such child in the same yard or enclos-  
11 ure with such adult prisoners or convicts or to bring such child into  
12 any yard or building in which adult prisoners or convicts may be

13 present. In counties of over forty thousand population it shall  
14 be the duty of the proper authorities to provide and maintain at  
15 public expense a house separated and removed from any jail or  
16 lock-up to be in charge of a matron or other person of good moral  
17 character wherein all children within the provisions of this act  
18 shall, when necessary, before or after trial, be detained either for  
19 securing the attendance of such child at any hearing or trial of any  
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20 cause or for such disciplinary purposes as may seem necessary to  
21 the court for the best interests of said child and of the state. Any  
22 child within the provisions of this act, informed against or re-  
23 garding which a petition has been filed, or for any purpose taken  
24 into custody, shall, at any time before it is tried and adjudged to  
25 be delinquent, be entitled, by any friend or parent offering suffi-  
26 cient surety, to give bond or other security for its appearance at  
27 any hearing or trial of such case, as such right given to persons in-  
28 formed against for crime; and the court may in such case, upon the  
29 request of said child or its parent or person representing it, ap-  
30 point counsel to appear and defend on behalf of any such child,  
31 such counsel to receive no pay from the county.

Sec. 15. Agents of juvenile reformatories: It shall be the  
2 duty of the board of managers, trustees or such authorities as may  
3 be vested by law with the control or management of any state in-  
4 stitution in which juvenile delinquents may be committed by the  
5 courts of this state to maintain an agent of such institution,  
6 whose duty it shall be to examine the homes of children paroled  
7 from such institution for the purpose of ascertaining and reporting  
8 to said institution, whose duty it shall be to examine the homes  
9 of children paroled from such institution for the purpose of as-

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10 certaining and reporting to said institution whether they have  
11 suitable homes; to assist children paroled or discharged from such  
12 institution in finding employment and to maintain a friendly su-  
13 pervision over paroled inmates during the continuance of their  
14 parole. Such agent shall hold office subject to the pleasure of the  
15 board or other authority having charge of said institution and  
16 making the appointment, and shall receive such compensation as  
17 such board or authorities controlling such institution may deter-  
18 mine out of any funds appropriated for such institution which  
19 may be applicable thereto.

Sec. 16. Religious preference: The court in committing

2 children shall place them as far as practicable in the care and cus-  
3 tody of some individual holding the same religious belief as the  
4 parents of said child, or with some association which is enrolled  
5 by persons of like religious faith with that of the parents of the  
6 said child.

Sec. 17. Fees of officers: It shall be unlawful for any court  
2 clerk or other person to tax or collect, or for any county to pay,  
3 any fees whatever which may be permitted by any law to be taxed  
4 or collected for the benefit of any court officer or person for any  
5 case concerning any child coming within the provisions of this  
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6 act for violating any law of this state, unless such child shall be  
7 proceeded against under the provisions and in accordance with the  
8 purpose of this act, except in capital cases or where the courts  
9 shall direct a proceeding under the criminal code, as provided in  
10 section eight of this act, or where a case has been instituted be-  
11 fore a justice of the peace or police magistrate, who shall duly  
12 comply with the terms of section twelve of this act.

Sec. 18. Reports of juvenile courts: Between the first and  
2 fifteenth days of January of each year, the clerks of the courts hav-  
3 ing jurisdiction shall submit to the county commissioners of their  
4 respective counties a report in writing, upon blanks to be fur-  
5 nished by said commissioners, showing the number and disposition  
6 of delinquent children brought before such court or judge, to-  
7 gether with such useful information regarding such cases and  
8 the parentage of such children and the character of their delin-  
9 quency as may be reasonably obtained at trials thereof, and which  
10 may be required by the said commissioners; *provided*, that the  
11 name or identity of any such child or parent shall not be dis-  
12 closed in such report.

Sec. 19. Construction and purpose of act: This act shall  
2 be liberally construed to the end that its purpose may be carried  
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3 out, to-wit: that the care, custody and discipline of the child shall  
4 approximate as nearly as may be that which should be given by its  
5 parents in cases of delinquency, that as far as practicable any de-  
6 linquent child shall be treated, not as a criminal, but as misdirected  
7 and misguided and needing aid, encouragement and assistance,  
8 and if such child cannot be properly cared for and corrected in its  
9 own home, or with the assistance and help of the probation officers,  
10-11 then, that it may be placed in a suitable institution where it may

12 be helped and educated and equipped for industrial efficiency and  
13 useful citizenship.

Sec. 20. Support of Children: If it shall appear, upon the  
2 hearing of the case that the parents, parent, or any person or  
3 persons named in such petition who are in law liable for the sup-  
4 port of such child, are able to contribute to the support of such  
5 child, the court or judge shall enter an order requiring such par-  
6 ents, parent or other person to pay to the guardian so appointed  
7 or to the institution, association, society or person to whom such  
8 child may be committed, a reasonable sum from time to time for  
9 the support, maintenance or education of such child, and the court  
10 or judge may order such parents, parent or other person to pay  
11 to the guardian so appointed or to the institution, association,  
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12 society or person, to which such child may be committed, a reason-  
13 able sum from time to time for the support, maintenance or educa-  
14 tion of such child, and the court or judge may order such parents,  
15 parent or other person to give reasonable security for the payment  
16 of such sum or sums, and upon failure to pay, the court or judge  
17 may enforce obedience to such order by proceeding as for con-  
18 tempt of court. The court or judge may, on application and on  
19 such notice as the court or judge may direct from time to time,  
20 make such alterations in the allowance as shall appear reasonable  
21 and proper.

Sec. 21. Same, Requiring Payment from Wages: If the per-  
2 son so ordered to pay for the support, maintenance or education  
3 of a delinquent child shall be employed for wages, salary or com-  
4 mission, the court or judge may also order that the sum to be  
5 paid to him shall be paid to the guardian or institution, society,  
6 association, or person having custody of such child, out of his  
7 wages, salary or commission and that he shall execute an assign-  
8 ment thereof *pro tanto*. The court or judge may also order the  
9 parent or the person so ordered to pay the sum of money for the  
10 support, maintenance or education of a child, from time to time  
11 to make discovery to the court or judge as to his place of employ-

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12 ment and amount earned by him. Upon his failure to obey the  
13 order of court or judge he may be punished as for contempt of  
14 court.

Sec. 22. Guardianship of Estate of Child; Age of Minority:  
2 Nothing in this act shall be construed to give the guardian ap-

3 pointed under this act the guardianship of the estate of the child  
4 or to change the age of minority for any other purpose except the  
5 custody of the child.

Sec. 23. Appeals: Cases under this act tried in any in-  
2 ferior court may be reviewed by writ of error or appeal to the cir-  
3 cuit court and if tried in a circuit court by writ of error or appeal  
4 to the supreme court of appeals.

Sec. 24. Population of Counties: In construing the pro-  
2 visions of this act, all counties shall be deemed to have the popula-  
3 tion as shown by the last official census taken prior to the inter-  
4 pretation of any question arising under this act.

Sec. 25. Contempt of Court: Any person who shall inter-  
2 fere with the direction or disposition of any child under any order  
3 of the court concerning the child, made in pursuance of the pro-  
4 visions of this act, or with any probation or other officer of the  
5 court in carrying out the directions of the court under any such  
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6 order, shall be held to be in contempt of court and subject to  
7 punishment as for contempt of court.

Sec. 26. Contributory delinquency; penalty: Any person who  
2 shall by any act cause, encourage or contribute to the delinquency  
3 of a child, as this term with reference to children is defined by the  
4 statutes of this state, or who shall for any cause be responsible  
5 therefor, shall be guilty of a misdemeanor, and upon trial and  
6 conviction thereof, shall be fined in a sum not to exceed five hun-  
7 dred dollars or imprisoned in the county jail for a period not  
8 exceeding one year, or by both such fine and imprisonment.

Sec. 27. Suspension of Sentence: The court may suspend any  
2 sentence, stay or postpone the enforcement of execution, or re-  
3 lease from custody any person found guilty in any case under  
4 this act upon such conditions as shall be imposed by the court in  
5 accordance with the provisions of this act.

Sec. 28. Same; bond: Such conditions may include the fol-  
2 lowing: any person found guilty under this act of contributory  
3 delinquency may be required to furnish a good and sufficient bond  
4 to the state of West Virginia in such penal sum as the court  
5 shall determine, not exceeding one thousand dollars, conditioned  
6 for the payment of such amount as the court may order not ex-

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7 ceeding twenty dollars per month for the support, care and main-  
8 tenance of the child to whose delinquency such person has con-

9 tributed; such sum to be expended under the directions and or-  
10 ders of the court for the purpose mentioned.

Sec. 29. Same: custody of child; forfeiture of bond: The  
2 court may permit any child to remain in the custody of the person  
3 found guilty by this act of contributing to its delinquency under  
4 such suspended sentence, upon such conditions for the treatment  
5 and care of such child as may seem to the court to be for its  
6 welfare, or as may be calculated to secure obedience to the law  
7 or to remove the cause of such delinquency, and while such con-  
8 ditions are accepted and complied with by any such person, such  
9 sentence may remain suspended subject to be enforced upon  
10 the violation of any of the conditions imposed by the court, and  
11 such bond may be forfeited upon a failure to comply with any  
12 such conditions, as well as upon the failure to pay any amount  
13 required for the maintenance of such child.

Sec. 30. Same: proceedings on bond. As a part of the con-  
2 ditions of any such bond mentioned in section thirty-four hereof  
3 it shall be understood that it shall not be necessary to bring a  
4 separate suit to recover the penalty of any such bond which has  
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5 become forfeited, but the court may cause a citation or summons  
6 to issue to the surety or sureties thereon, requiring that he or they  
7 appear at a time named by the court, which time shall be not  
8 less than ten nor more than twenty days from the issuance there-  
9 of, and show cause, if any there be, why a judgment should not  
10 be entered for the penalty of such bond and execution issued for  
11 the amount thereof against the property of the surety or sureties  
12 thereon, as in civil cases, and upon failure to appear or failure  
13 to show any such sufficient cause, the court shall enter such judg-  
14 ment in behalf of the state of West Virginia against the princi-  
15 pal and such surety or sureties on such bond not to exceed the  
16 sum of one thousand dollars including the costs. Any moneys  
17 collected or paid upon any such execution, or in any case upon  
18 moneys collected or paid upon any such execution, or in any case  
19 upon such bond, shall be turned over to the clerk of the circuit  
20 court (juvenile court) of the county in which such bond is given,  
21 to be applied first to the payment of all court costs and then  
22 to the care or maintenance of the child or children for whose de-  
23 linquency such conviction was had, in such manner and upon  
24 such terms as the court may direct. If any such moneys so col-  
25 lected be unnecessary for the purposes last mentioned, it shall be



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26 turned over within one year to the treasurer of the county.

Sec. 31. Same; Violation of Conditions of Sentence: If, in  
2 the case of any person found guilty of contributory delinquency  
3 where the court has suspended the execution of the sentence dur-  
4 ing the good behavior and satisfactory conduct of the defendant  
5 or upon any other terms and conditions which may have been im-  
6 posed by the court, it shall be made to appear to the satisfaction  
7 of the court at any time during such suspended sentence or stay  
8 of execution, that it ought to be enforced, the court may there-  
9 upon enforce the same, and any jail sentence thereunder shall  
10 commence from the date upon which such sentence is ordered to  
11 be enforced.

Sec. 32. Same; Period of Suspension; Discharge: No sen-  
2 tence shall be suspended or final judgment or execution shall be  
3 stayed in the case of any person found guilty under this act, to  
4 exceed a period of two years. If at any time prior thereto it shall  
5 appear to the satisfaction of the court that such person has com-  
6 plied faithfully with the conditions of any suspended sentence,  
7 judgment or execution, or that he is for any cause in the opinion  
8 of the court, entitled to be released therefrom, the court may sus-  
9 pend such sentence indefinitely, in which case such person shall  
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10 be finally released and discharged as he shall be in any event at  
11 the end of two years from imposition of any sentence; *provided*,  
12 that if any defendant be actually serving a jail sentence imposed  
13 by this act and enforced before the expiration of said two years  
14 in accordance with the provisions of this act, then in such case  
15 the defendant shall not be finally discharged until the expiration  
16 of any such sentence.

Sec. 33. Complaints: Probation officers having the powers  
2 of sheriffs or police officers, as well as county prosecuting attorneys  
3 shall have the right and be vested with all the power necessary to  
4 file complaints against any person under this act and to prosecute  
5 any such case. In all such cases it shall be the duty of the county  
6 prosecuting officer representing the people to prepare any such  
7 complaints and prosecute any such cases for such probation officer  
8 when so requested by such officer or the judge of the juvenile court;  
9 but nothing herein shall be so construed to interfere with any  
10 county prosecutor representing the people prosecuting such cases  
11 under this or any other act as in other criminal cases.

Sec. 34. What Constitutes Contributory Delinquency: In  
2 order to find any person guilty of violating this act it shall not  
3 be necessary to prove that the child has actually become delin-

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4 quent; *provided*, it appears from the evidence that through any  
5 act of neglect or omission of duty or by the improper conduct on  
6 the part of any such person the delinquency of any child may  
7 have been caused or merely encouraged.

Sec. 35. Liberal Construction of Act: This act shall always  
2 be liberally construed in favor of the state for the purpose of the  
3 protection of the child from neglect or omission of parental duty  
4 toward the child by the parents, as well also to protect the children  
5 of the state from the effects of the improper conduct or acts, or the  
6 bad example of any person or persons whomsoever, which may be  
7 calculated to cause, encourage or contribute to the delinquency of  
8 children, although such persons are in no way related to the child.

Sec. 36. Act not to Repeal other Criminal Statutes: Noth-  
2 ing in this act shall be construed to be in conflict with or to repeal  
3 or prevent proceedings under any act or statute of this state which  
4 may have otherwise defined any specific act of any person as a crime  
5 of any character which act might also constitute contributory de-  
6 linquency, or to prevent or interfere with proceedings under any  
7 such acts, nor shall it be construed to be inconsistent with, nor to  
8 repeal any act providing for the support by the parent or parents  
9 of their minor children, or any act providing for the punishment  
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10 of cruelty to children, or the taking of indecent liberties with or  
11 for selling liquor, tobacco or firearms to children, or for permitting  
12 them in evil or disreputable places, and nothing in any such acts  
13 or similar acts shall be construed to be inconsistent with or to  
14 repeal this act or prevent proceedings hereunder, but in all cases  
15 where there shall be more than one prosecution for the same offense  
16 under whatever acts of the character herein described, the facts  
17 may be given in evidence to the judge of the court, and may  
18 be in the discretion of the court considered in mitigation of any  
19 sentence in any such cases.

Sec. 37. Detention Home for Children; Establishment;  
2 Maintenance: In counties of forty thousand population or over  
3 the county court shall locate, purchase, erect, lease, or otherwise  
4 provide and establish and also support and maintain a detention  
5 home for the temporary care and custody of delinquent, truant

6 children, and shall levy and collect a tax to pay the cost of its  
7 establishment and maintenance in accordance with the terms and  
8 provisions of this act. The county court in any county in the  
9 state shall have the power and authority to locate, purchase, erect,  
10 lease, or otherwise provide and establish and also to support and  
11 maintain a detention home for the temporary care and custody of

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12 dependent, delinquent, or truant children, and to levy and collect  
13 a tax to pay the cost of its establishment and maintenance, in  
14 accordance with the terms and provisions of this act; *provided*,  
15 that in counties of less than forty thousand population that the  
16 sections of this act relating to the establishment and maintenance  
17 of such a detention home be adopted by the legal voters of such  
18 county as hereinafter provided. In two or more counties of less  
19 than forty thousand population each, the county courts may have  
20 the authority to locate, purchase, erect, lease, or otherwise provide  
21 and establish and also support and maintain a detention home  
22 for the temporary care and custody of delinquent children; and  
23 may levy and collect a tax to pay the cost of its establishment and  
24 maintenance, in accordance with the terms and provisions of this  
25 act; the several counties each bearing its proportion of the cost  
26 according to population.

Sec. 38. Same; Equipment; Management: Such detention  
2 home shall be so arranged, furnished and conducted, that, as nearly  
3 as practicable, for their safe custody, the inmates thereof shall  
4 be cared for as in a family home and public school. To this end  
5 the employees provided and selected to control and manage such  
6 home shall consist of a discreet woman of good moral character,  
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7 or of a man and woman of good moral character, who shall be  
8 tained, the offense alleged to have been committed by such child,  
9 detention home, and of such help or assistance as in opinion of  
10 the county commissioners shall be necessary to the proper care  
11 and maintenance of such home. The superintendent and matron  
12 shall reside in the home and at least one of them shall be com-  
13 petent to teach and instruct children in all branches of education  
14 similar to those embraced in the curriculum of the public schools  
15 of the county up to and including the eighth grade. The home  
16 shall be supplied with all necessary and convenient facilities for  
17 the care of the inmates as herein provided.

Sec. 3. Same; Employees; Supplies: The superintendent  
2 and matron shall be designated and appointed by the county court

3 to serve during the pleasure of said court, and shall receive such  
4 salary, payable in monthly installments, as the said county court  
5 may provide and fix. All other necessary employees for the con-  
6 duct, care and maintenance of said home shall be selected, named  
7 and appointed in like manner upon such salaries as shall be  
8 fixed and provided by said county court. The supplies or repairs  
9 necessary to maintain, operate and conduct said home, shall be  
10 furnished upon the requisition of its superintendent to the presi-

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11 dent of the county court and the bills therefor shall be audited,  
12 passed upon, and paid as other bills for supplies furnished for  
13 county institutions.

Sec. 40. Same; Admission; Records; Reports: It shall be  
2 the duty of the superintendent or matron, until further order of  
3 the court, to receive or detain temporarily, all children who are  
4 committed to the home by the circuit or other court of the county;  
5 and to keep a complete record of all children committed to said  
6 home. Such record shall contain the name, age and residence of  
7 each child and the cause of its detention, the length of time de-  
8 tained, the offense alleged to have been committed by such child,  
9 if any, and other useful data or information that may be directed  
10 to be kept by the court of such county having jurisdiction. A  
11 record shall also be kept by such superintendent or matron of all  
12 expenditures made by the county for the care and maintenance of  
13 such home. An annual report shall be made to the county court  
14 by the superintendent or matron on the first day of June in each  
15 year and he shall file a copy thereof with the county clerk of the  
16 county, which shall contain an itemized statement of all such  
17 expenses necessary to maintain said home, together with the num-  
18 ber of inmates therein during each month. The circuit or other  
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19 court having jurisdiction or the president of the county court,  
20 may at any time demand, in which case it shall be the duty of the  
21 superintendent or matron to furnish such information as said  
22 circuit or other court or the president of said county court may  
23 require, concerning the conduct, maintenance, or inmates of said  
24 home.

Sec. 41. Same; Tax for Establishment and Maintenance:  
2 The county court of any county shall have the power and authority,  
3 in addition to taxes levied and collected for other county pur-  
4 poses in each county, to levy and collect annually a tax not ex-

ceeding one mill on the dollar valuation upon all property within the county for the purpose of purchasing, erecting, leasing or otherwise providing, establishing, supporting and maintaining such detention home; *provided*, the sections of this act relating to the establishment and maintenance of county detention home, shall be adopted and the levy and collection of such tax authorized by the legal voters of the county in the manner provided by section forty-two of this act.

Sec. 42. Same; Adoption of Act by Election: The electors of any county may adopt and make mandatory upon the county court of such county the provisions of sections thirty-seven, and

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forty-one of this act in the following manner: Upon the petition of one hundred legal voters, who are freeholders of such county, the county court shall submit the proposition for the establishment and maintenance of a county detention home as provided in sections thirty-seven and forty-one hereof, to the legal voters of said county and shall cause a vote to be taken upon the question at the several places of voting in said county at the succeeding general election which is first held in the county after such vote is ordered taken, or, if the petition so specifies, the court shall order a special election for the purpose not later than ninety days from the filing of such petitions; but the order for and notice of such special election shall be published by such county court once each week for four successive weeks prior to such election in two newspapers of opposite politics, if such there be, published in said county. A vote shall thereupon be taken upon said question, and the result ascertained under the regulations prescribed for a general election of county officers; or, if the said vote is taken at a special election, the same shall be held by commissioners appointed for the purpose by the county court at the time said election is ordered and the result shall be ascertained and certified according to the regulations prescribed by law for ascertaining and certifying

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the election of county officers. The proposition so to be voted for shall be printed on a separate ballot to be prepared and provided in the same manner as other ballots, and such ballots shall be in form as follows:

Proposition to authorize county authorities to establish and maintain a detention home for delinquent children, and to levy

30 a tax not to exceed one mill on the dollar valuation, to pay the  
31 cost of its establishment and maintenance.

☐

For adoption.

☐

Against adoption.

32 If the majority of the votes cast for and against such propo-  
33 sition, shall be for such proposition, the act shall be adopted, and  
34 the county court shall enter of record an order declaring this act  
35 in force in such county, and the tax provided for in the act shall  
36 thereafter be annually levied and collected in such county for the  
37 purposes specified in this act, until such time as the legal voters  
38 of the county shall abandon this act in the manner provided in  
39 section forty-three hereof.

Sec. 43. Same; Discontinuance of Home by Election: The  
2 electors of any county which shall have established a detention  
3 home may discontinue the maintenance of same by submitting the  
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4 question of discontinuance to the voters of the county at any gen-  
5 eral or special election, on petition of one hundred legal voters, who  
6 are freeholders of the county, in the same manner as provided for  
7 submitting the question of establishment in section forty-two.  
8 The proposition to be voted for in such general or special election  
9 shall be printed on a separate ballot to be prepared and provided  
10 in the same manner as other ballots, and such ballot shall be in  
11 form as follows:

12 Proposition to discontinue maintenance of a detention home  
13 for delinquent children and to discontinue levying and collecting  
14 tax for such maintenance.

☐

For discontinuance.

☐

Against discontinuance.

15 If a majority of the votes cast for and against the propo-  
16 sition shall be for discontinuance, the county court shall enter of  
17 record an order for such discontinuance, and shall no longer levy  
18 and collect the tax herein provided for.

Sec. 44. Same; Jurisdiction to Commit to Home: Any  
2 court acting under and in pursuance of this act or any amend-

3 ments thereto, may commit any child coming within the terms  
4 of said act to said home, temporarily.

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Sec. 45. Partial Invalidity of Act: The invalidity of any  
2 portion of this act shall not affect the validity of any other portion  
3 thereof which can be given effect without such invalid part.

## House Bill No. 60.

[BY MR. MCCLINTIC.]

Introduced January 14, 1919. Referred to the Committee on the  
Judiciary. January 16, reported back with the recommendation that  
it do pass; January 17, taken up in regular order for consideration,  
read a first time and ordered to its second reading.

A BILL to amend and re-enact section thirteen of chapter one hun-  
dred and thirty-seven of the code of West Virginia, as amended  
and re-enacted by section eleven of chapter one hundred and  
twenty-nine of the acts of the legislature of one thousand eight  
hundred and eighty-two, relating to constables' fees in civil and  
criminal cases.

*Be it Enacted by the Legislature of West Virginia:*

That section thirteen of chapter one hundred and thirty-seven of  
the code of West Virginia, as amended and re-enacted by section  
eleven of chapter one hundred and twenty-nine of the acts of the  
legislature of one thousand eight hundred and eighty-two, be, and  
the same is hereby amended and re-enacted so as to read as follows:

Section 13. For removing a person by virtue of a warrant  
2 issued under the thirteenth section of chapter forty-six to be  
3 charged to the county court of the county, ten cents for each mile  
4 of necessary travel, going and returning; for service and return  
5 of summons to commence a suit and for every additional sum-  
6 mons, seventy-five cents; for serving and returning order of at-  
7 tachment, fifty cents for each garnishee summoned, and two dollars  
8 for taking property, including inventory and appraisement, be-

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9 sides the reasonable expenses of removing, securing and keeping  
10 the property attached; for subpoena, for each person served there-  
11 with fifty cents; for summoning a jury and return of venire, one  
12 dollar and fifty cents; for levying an execution on personal prop-

13 erty and return, one dollar; for posting notices of sale, fifty cents;  
14 for money made under execution or attachment and paid to the  
15 party entitled thereto, ten per cent on the first one hundred dol-  
16 lars and five per cent on the excess thereof; for serving and re-  
17 turning other writs and notices not specified in this section, each  
18 seventy-five cents; for executing a writ of possession under section  
19 two hundred and thirty-five of chapter fifty, two dollars; for  
20 summoning the jury and witnesses for inquest on a dead body, to  
21 be audited and paid from the treasury of the county, three dol-  
22 lars; for services not otherwise provided for the same fees as  
23 sheriff for similar cases.

## House Bill No. 5.

[BY MR. RICHARDS.]

Introduced January 13, 1919. Referred to the Committee on the Judiciary. January 16, reported back with the recommendation that it do pass; January 17, taken up in regular order for consideration, read a first time and ordered to its second reading.

A BILL to amend chapter one hundred and twenty of the code, by adding thereto section nine, relating to the duties of prosecuting attorneys.

*Be it Enacted by the Legislature of West Virginia:*

That chapter one hundred and twenty of the code be amended by adding thereto section nine, as follows:

Section 9. In the institution and prosecution of all necessary and proper proceedings for the violation of penal laws, as required by section six of this chapter, the prosecuting attorney of any county, by and with the consent of the county court or the president thereof when the court is not in session, shall have authority to employ such persons as he may deem necessary, except attorneys, to assist in the detection, apprehension, detention, prosecution or trial of any criminal causes, or in any other manner that the prosecuting attorney may deem necessary or proper, and any expenses incurred by reason of the services of such persons so employed by the prosecuting attorney shall be paid out of the county treasury of the county where such offense was committed, upon presentation to the county court of proper bills approved by the prosecuting attorney for such services or expenses.

All acts or parts of acts in conflict herewith are hereby repealed.



# House Bill No. 250

[BY MR. HILLEARY.]

Introduced February 5, 1919. Reference to committee dispensed with. Read a first time and ordered to its second reading.

A BILL to amend chapter three of the acts of the extra session of the legislature of one thousand nine hundred and eight, establishing the independent school district of Buckhannon, by adding section twelve-a thereto, and amending and re-enacting sections six, thirteen and fourteen.

*Be it enacted by the Legislature of West Virginia:*

That chapter three of the acts of the extra session of the legislature of one thousand nine hundred and eight be amended by adding section twelve-a thereto, and amending and re-enacting sections six, thirteen and fourteen to read as follows:

Section 6. The said board shall, at their first meeting in 2 July of each year, appoint a secretary who shall perform such 3 duties for said board as are required of secretaries of other boards 4 of education, who shall hold his office at the will of said board 5 and whose compensation shall be fixed by the board and shall not 6 be less than fifty nor more than one hundred dollars per year, 7 and shall have in addition thereto the usual fee for making the 8 annual report required by law.

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Sec. 12-a. The board of education shall appoint two 2 competent persons to act with the superintendent as a board of 3 examiners. It shall be the duty of said board of examiners to 4 examine all applicants for positions as teachers in the schools of 5 the district, and each person so examined shall pay a fee of one 6 dollar, but no applicant shall be entitled to examination who 7 shall not furnish evidence satisfactory to the board of good moral 8 character.

9 Two classes of certificates shall be granted, namely, high 10 school certificates and elementary school certificates; and the 11 board of education shall have power to make special regulations 12 as to the branches to be given in examination in each class.

13 First grade certificates shall be issued to all applicants who 14 attain a general average of ninety percent, and not lower than 15 seventy-five percent in any one branch. Certificate of both classes

16 shall be valid for a period of one year, and shall be renewable  
17 at the discretion of the board of examiners.

18 The board of examiners may, without examination, issue a  
19 high school certificate based on a diploma from a standard col-  
20 lege; and may in like manner issue an elementary certificate based  
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21 on a diploma from a standard normal school or other school of  
22 equal rank.

Sec. 13. The board of education shall appoint all teachers  
2 for public schools of any grade within the said district and fix  
3 their salaries at a meeting held on the first Monday in July, or  
4 as soon thereafter as possible. But no person shall be employed  
5 to teach a school of the grade for which the appointment is made,  
6 without having a satisfactory certificate obtained and issued as  
7 required by law in the examination of teachers for the public  
8 schools of the state, or in compliance with section twelve-a of  
9 this act.

Sec. 14. The superintendent and teachers shall be subject  
2 in all respects to the rules and regulations adopted by the board  
3 of education, and may be removed by the board of education for  
4 incompetency or grossly immoral conduct, in the manner and  
5 form prescribed for the removal of teachers in section thirteen  
6 of chapter forty-five of the code as amended. The board of edu-  
7 cation shall have power to establish a city institute for city  
8 teachers, or course of educational lectures, to be held at such  
9 time and place as they may designate. Attendance upon these  
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10 institutes shall be obligatory upon all teachers employed in the  
11 district, and is required in lieu of attendance upon the county  
12 teachers' institute.

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## House Bill No. 131

[BY MR. COLEMAN.]

Introduced January 20, 1919. Referred to the Committee on the  
Judiciary. February 10, reported back with the recommendation that  
it do pass. February 15, coming up in regular order for consideration,  
was read a first time and ordered to its second reading.

A BILL to provide for the suppression of mob violence, and for the remuneration and proper distribution to dependents or legal representatives of victims of lynchings and punishment for participation in same.

*Be it enacted by the Legislature of West Virginia:*

That,

Section 1. A collection of people assembled for an unlawful purpose and intending to do damage or injury to any one, or pretending to exercise correctional power over other persons by violence or without authority of law, shall be deemed a "mob," within the meaning of this act. An act of violence upon the body of any person shall constitute a "lynching" within the meaning of this act.

Sec. 2. The term "serious injury" within the meaning of this act, shall include such injury as permanently disables the person receiving it from earning a livelihood in whatever line of labor he may be wont to be engaged.

Sec. 3. A person taken from officers or justice by a mob and assaulted with whips, clubs, missiles, or in any other manner, may

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3 recover, as hereafter provided, a sum not to exceed one thousand dollars as damage from the county in which the assault is made.

Sec. 4. A person assaulted and lynched by a mob may recover from the county in which the assault is made, a sum not to exceed one thousand dollars, or, if the injury received therefrom is serious, a sum not exceeding two thousand and five hundred dollars; or, if such injury result in permanent disability to earn a livelihood at whatever occupation the person so disabled is wont to engage in, a sum not to exceed five thousand dollars.

Sec. 5. The legal representative of a person dying from injuries received from lynching by a mob, may recover of the county, in which such lynching occurred, a sum not to exceed seven thousand and five hundred dollars damage for such unlawful killing. Such sum shall be applied to the maintenance of the family and the education of the minor children of such person so lynched, if any survive him, until such children are of legal age, and then distributed to the survivors, share and share alike, the widow receiving an amount equal to a child's share. If there be no widow or minor children surviving such decedent, such sum shall be distributed among the next of kin according to the laws

12 of the distribution of the personality of an intestate. Such sum  
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13 so recovered shall not be a part of the estate of such person so  
14 lynched, nor be subject to any of his liabilities.

Sec. 6. A person suffering death or injury from a mob at-  
2 tempting to lynch another person shall come within the provision  
3 of this act. He or his legal representatives shall have a like right  
4 of action as one purposely injured or killed by such mob.

Sec. 7. Actions for the recoveries provided for in this act  
2 must be commenced within two years from the date of such  
3 lynching, in any court having original jurisdiction of an action  
4 for damages for malicious assault.

Sec. 8. An order to the commissioners of a county, against  
2 which such recovery is had, to include it with the costs of action  
3 in the next succeeding tax levy for such county, shall be a part  
4 of the judgment in such case.

Sec. 9. If the decedent so lynched has minor children sur-  
2 viving him, the fund shall be turned over to a regularly appointed  
3 guardian. Such guardian shall administer such fund under the  
4 direction of the probate judge, or an officer whose jurisdiction is  
5 similar in functional duty, allowing not more than five hundred  
6 dollars for counsel fee in the action for recovery.

Sec. 10. The county in which a lynching occurs may recover  
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2 the amount of a judgment and cost against it in favor of the  
3 legal representatives of a person killed or seriously injured by a  
4 mob, from any of the persons composing such mob. A person  
5 present, with hostile intent at such lynching, shall be deemed a  
6 member of the mob and be liable to such action.

Sec. 11. If a mob carries a prisoner into another county, or  
2 comes from another county to commit violence on a prisoner  
3 brought from such county for safe keeping, the county in which the  
4 lynching is committed may recover the amount of the judgment  
5 and costs from the county from which the mob came, unless  
6 there was contributory negligence on the part of officials of such  
7 county in failing to protect such prisoner or disperse such mob.

Sec. 12. This act shall not relieve a person concerned in such  
2 lynching from prosecution for homicide or assault, for engaging  
therein.

ORDERED PRINTED BY COMMITTEE.

# House Bill No. 88

[BY MR. RICHARDS.]

A BILL providing for the regulation of the practice of the business of undertaking within the state of West Virginia, and providing penalties for violation thereof.

*Be it Enacted by the Legislature of West Virginia:*

Section 1. Any person, who at the time this bill is enacted by the legislature of West Virginia, shall be actually engaged in the business of undertaking within the state, and who desires to continue in such business, shall, on or before December thirty-first, one thousand nine hundred and nineteen, file with the West Virginia state board of embalmers, a verified, written application for authority to do business as an undertaker, stating therein the fact of his having been so engaged in business and accompanying the same with the payment of a fee of five dollars, and said board shall thereupon issue to said applicant a license to do business as an undertaker; *provided*, that undertakers holding license to practice the art or science of embalming dead human bodies, issued by the West Virginia state board of embalmers, shall not be required to secure an undertaker's license.

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Section 2. Every undertaker, including such as are licensed to practice the art or science of embalming dead human bodies, who shall take into his employ an apprentice, shall report to said board within three months thereafter, that fact together with such further information as the board may require. Upon satisfactory evidence that said apprentice is of good moral character and possesses proper qualifications, the said board shall issue to such apprentice a certificate of registration as a "registered undertaker's apprentice." The fee for such registration shall be one dollar.

Section 3. Before any person shall hereafter engage in the business of undertaking, who has failed to secure an undertaker's license as provided in section one of this act, or who does not hold a valid license to practice the art or science of embalming dead human bodies in this state, he shall make application, and secure from, the West Virginia board of embalmers, an undertaker's license under the following conditions: Such applica-

tion shall contain the name, age, residence and place of business of the applicant, a statement of the names and location of the undertakers or embalmers under whom he served as an apprentice, and the length of such service, which time of service shall

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be not less than two years in the aggregate, and said application shall be accompanied by the certification of at least two undertakers in good standing in the West Virginia funeral directors' association, that the said applicant is of good moral character and that the statements made by him in his application are true, and the said application shall be accompanied by a fee of ten dollars. When application shall be filed, as herein provided, said applicant shall present himself before said board for examination, and if, upon due examination, said board shall find that the said applicant is of good moral character, possessed of knowledge generally, and particularly possessed of knowledge of sanitation, disinfection, preparation and care of dead human bodies for burial, transportation or other disposal, the board shall issue to said applicant a license to engage in the business of undertaking. *Provided*, that after December thirty-first, one thousand nine hundred and twenty-one, the said board shall consider applications only by persons holding certificates of registration as registered undertaker's apprentices.

Section 4. If a firm or corporation shall desire to engage in the business of undertaking, at least one member of such firm, or one resident employee of such corporation, at each place of busi-

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ness of such firm or corporation, shall be a licensed undertaker or a licensed embalmer of record in the office of the clerk of the county court in the county wherein it is proposed to carry on said business of undertaking; and no member of a firm, or employee of a firm or corporation, whose duties engage him in the care, preparation, burial, or other disposal of dead human bodies, shall discharge the duties of his employment unless he shall be licensed as herein provided, or unless he holds a valid West Virginia license to practice the art or science of embalming dead human bodies; nor shall any undertaker, firm or corporation, permit any person who is not a licensed embalmer, licensed undertaker, or a registered undertaker's apprentice, to assume the care or preparation for burial or disposal of the body of any person dead from a communicable disease; nor any person who is not

18 a licensed embalmer to assume the care or preparation for ship-  
19 ment or transportation of the body of any person dead from a  
20 communicable disease.

Section 5. All licenses issued under the provisions of this  
2 act shall be renewed annually if the holders thereof desire to con-  
3 tinue in the undertaking business. Each holder of such license  
4 shall make application to the West Virginia state board of em-  
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5 balmers, on or before the third Tuesday in June of each year,  
6 for a renewal of such license, and the said board shall, at the  
7 annual meeting thereof, grant and issue such renewals to all  
8 persons thereto entitled under the provisions of this act. No  
9 license or renewal of license shall be issued to any person not en-  
10 titled thereto under the provisions of this act. If any person in  
11 this state holding a license as an undertaker, contemplates moving  
12 from one county of this state to another, he shall make application  
13 to the Secretary of the Board to have his license transferred from  
14 the county wherein he is then engaged in business; to the county  
15 into which he intends to move. Each application for renewal or  
16 transfer shall be accompanied by a fee of one dollar and twenty-  
17 five cents. Said Board shall have the power to revoke any license  
18 granted or issued under the provisions of this act, for proper cause.  
19 Proper cause shall be deemed the failure to pay the renewal fee on  
20 or before the third Tuesday in June of each year; incompetent,  
21 careless or unprofessional practice by a license; or failure to com-  
22 ply with the rules and regulations of the Board. It shall be un-  
23 lawful for any person to practice as an undertaker after his license  
24 shall have been revoked, until he shall secure a new license in the  
25 same manner as if he never held a license. All licenses shall be

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26 signed by a majority of the Board, and attested over its official  
27 seal. The secretary of the Board shall, immediately after the is-  
28 suance of any license, renewal or transfer, as provided for in this  
29 act, file in the office of the Clerk of the County Court of the county  
30 wherein the holder of such license, renewal or transfer intends to  
31 practice the business of undertaking, a copy of the registration  
32 thereof, attested over the seal of the Board, and properly certified,  
33 and the said certified copy shall be recorded by the said Clerk in a  
34 book kept for that purpose, and the said Clerk shall, immediately  
35 upon the recordation of same, make a report of his having done so  
36 to the Secretary of the Board, which said report shall be in writing.

37 The said Clerk shall be entitled to a fee of twenty-five cents each  
38 for recording all certified copies of such registrations, which shall  
39 be paid by the Board. Said licenses and renewal certificates shall  
40 be displayed in a prominent and conspicuous place in the office or  
41 place of business of the licensee. No license or renewal issued un-  
42 der the provisions of this act shall be assignable, and every such  
43 license or renewal shall specify by name the person to whom it is  
44 issued, and shall specify the place or places where the business is  
45 to be carried on.

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Sec. 6. It shall be unlawful for any person, firm or corpor-  
2 ation to engage in the business of undertaking, or to hold himself  
3 out as an undertaker, either by word of mouth, advertising in a  
4 newspaper, distribution of handbills or by any other agency adver-  
5 tise or claim to be an undertaker or in the undertaking business,  
6 unless he shall have complied with the provisions set out in the five  
7 preceding sections of this act.

Sec. 7. In the meaning of this act, the word "Undertaker"  
2 shall be construed to mean any person who for consideration, lays  
3 out, handles, washes, dresses and prepares for burial, transportation  
4 or other disposal, dead human bodies, or who has charge of and di-  
5 rects funerals; and "Undertaking" shall be construed to mean fol-  
6 lowing the occupation of laying out, handling, washing, dressing  
7 and preparing for burial, transportation or other disposal of dead  
8 human bodies.

Sec. 8. Any person violating the provisions of this act shall  
2 be deemed guilty of a misdemeanor and upon conviction thereof in  
3 any court, shall be sentenced to pay a fine of not less than twenty-  
4 five dollars nor more than two hundred dollars, or undergo im-  
5 prisonment for a term not to exceed sixty days, for each and every  
6 offense.

7 All acts or parts of acts, inconsistent with this act, are hereby  
8 repealed.

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## House Bill No. 134

[BY MR. FERGUSON.]

Introduced January 21, 1919. Referred to the Committee on  
Roads and Internal Navigation; February 5, reported back with the



recommendation that it do pass; February 7, taken up out of its regular order for consideration, read a first time and ordered to its second reading.

A BILL to amend and re-enact sections forty-eight to sixty-one inclusive of chapter sixty-six of the acts of the regular session of the legislature of one thousand nine hundred and seventeen, relating to the maintenance of public roads.

*Be it enacted by the Legislature of West Virginia:*

That sections forty-eight to sixty-one inclusive, of chapter sixty-six of the acts of the regular session of the legislature of one thousand nine hundred and seventeen be, and the same are hereby amended and re-enacted to read as follows:

Section 48. The office of district road patrolman is hereby created. The county court of each county may, between the first day of March and the first day of April of each year, appoint a road patrolman for each magisterial district, who shall be an able-bodied man between the age of twenty-one and fifty years, and a resident of such district or county. The term of office of such patrolman shall begin on the first day of April and continue for one year.

Sec. 49. The county court may fill any vacancy occurring in said office, and may remove a patrolman for good cause. Each

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patrolman of roads shall enter into a bond with the county court, with security to be approved by the court, in the sum of not less than five hundred dollars, conditioned for the faithful performance of his duties, and to account for and pay over all moneys, tools and materials that may come into his hands by virtue of his office.

Sec. 50. The clerk of the county court shall, upon the appointment of a road patrolman by the county court, make out and deliver to said road patrolman a certificate showing his appointment, upon which certificates shall be printed a statement of the general duties of said patrolman as hereinafter provided.

Sec. 51. It shall be the duty of each road patrolman at his own expense to provide himself with a mattock, shovel and such other tools as may be necessary in the performance of his duty; patrol the roads in his district daily except Sunday, and, with his own labor and the funds at his command, keep all drains and culverts open; see that all roads are well drained and kept clear of rocks, fallen timber, land slides, unnecessary shade, and other

8 obstruction of every kind and character. He shall have police  
9 supervision and control over the placing of private foot crossings  
10 across any road in his district; shall remove or cause to be re-  
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11 moved all dead timber standing within fifty feet of the road.  
12 Across each stream, where necessary, said patrolman shall see  
13 that there is placed and kept a sufficient bridge, bench or log  
14 for the accommodation of foot passengers; shall inspect all bridges  
15 within his district and see that the same are in a safe condition;  
16 inspect the railing of said bridges, and see that the same is kept  
17 in good repair; and, subject to the direction of the county road  
18 engineer or county road supervisor, as the case may be, said  
19 patrolman shall perform such other duties with respect to the  
20 roads of his district as the county court may prescribe.

Sec. 52. Such patrolman shall have general police super-  
2 vision over all roads within his magisterial district, including  
3 the streets and alleys of unincorporated villages, and shall have  
4 authority to require abutting property owners to remove and  
5 keep removed all garbage, refuse and filth of every kind and  
6 character that may accumulate on said streets and alleys, and  
7 order opened any street or alley on any town plat which is of  
8 record in the clerk's office of the county court.

Sec. 53. The owner or tenants of land fronting on the pub-  
2 lic roads shall construct and keep in repair all approaches and  
3 drive-ways to and over the public roads, under the direction of

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4 the patrolman, and it shall be unlawful for such owner or tenant  
5 to fill up any ditch, or place any material of any kind or char-  
6 acter in any ditch so as in any manner to obstruct such ditch  
7 or to interfere with the purposes for which it was made.

Sec. 54. The county court may provide the road patrolman  
2 with such equipment and supplies, in addition to his regular  
3 equipment, as may be necessary to the proper discharge of his  
4 duties under this act, the same to be paid for out of any district  
5 road funds applicable thereto.

Sec. 55. Every patrolman of roads shall keep an exact  
2 account of the number of days' work done on the roads in his  
3 district and may require any person performing labor not under  
4 the immediate supervision of the patrolman to swear to his  
5 account, and said patrolman, by virtue of his office, is authorized  
6 to administer such oath.

Sec. 56. Said patrolman shall, before the fifteenth day of 2 June of each year, expend upon the roads of his district seventy- 3 five per cent of all the funds under his control, and fifteen per 4 cent of said funds between the fifteenth day of June and the 5 first day of November; the remaining ten per cent to be reserved 6 by him as an emergency fund to be used at his discretion, or  
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7 during the winter months. Said patrolman shall report quar- 8 terly to the county court the condition of the roads and bridges 9 in his district, and render an itemized account of all money ex- 10 pended during said quarter, and the amount and condition of 11 all equipment and materials. He shall pay to the treasurer of 12 the county, to be placed to the credit of the district road fund, 13 such portion of any quarterly balance of funds unexpended as 14 the court may order. He shall recommend from time to time 15 to the court such improvements upon the district roads in his 16 district, and alterations therein, or such new roads as he thinks 17 ought to be made, and the probable cost thereof. All reports 18 shall be made in duplicate and one copy transmitted to the state 19 road commission.

Sec. 57. Every patrolman of roads shall turn over all 2 accounts, moneys and papers pertaining to his office, and all 3 materials, tools and equipment belonging to the said district 4 or county, to his successor, taking receipts therefor in duplicate, 5 one of which shall be kept by the outgoing patrolman and the 6 other filed with the clerk of the county court; if he fails to do 7 so, he shall be liable to a fine and imprisonment as provided in 8 the next section.

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Sec. 58. Any patrolman who has been duly appointed and 2 accepted the office, failing to perform the duties as prescribed 3 in this act, without just cause therefor, shall be guilty of a 4 misdemeanor, and upon conviction thereof, shall be fined not 5 less than twenty-five nor more than one hundred dollars, and, 6 moreover, shall be liable on his official bond for the breach of any 7 of its terms and conditions.

Sec. 61. Every patrolman of roads shall be allowed for his 2 services by the county not less than three dollars, nor more than 3 four dollars for every day necessarily employed by him in per- 4 forming his official duties, and his own affidavit shall be *prima* 5 *facie* evidence thereof; and such account, when audited and

6 allowed by the court, shall be paid as hereinbefore provided, out  
7 of the taxes collected for district road purposes, and constituting  
8 the district road fund. No road patrolman shall engage in any  
9 other business which would prevent his giving his time and at-  
10 tention to the roads of his district, in accordance with such regu-  
11 lations as may be prescribed by the county court.

12 All acts and parts of acts inconsistent with this act are hereby  
13 repealed.

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## House Bill No. 4.

[BY MR. RICHARDS.]

Introduced January 13, 1919. Referred to the Committee on  
Judiciary. January 14—Reported back with the recommendation  
that it do pass. January 15—taken up in regular order for considera-  
tion, read a first time and ordered to its second reading.

A BILL to repeal chapter thirty-seven of the acts of the legislature  
of one thousand nine hundred and seventeen, entitled "An act  
to provide at general and primary election for double election  
boards, and to facilitate the counting and declaration of the  
vote."

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-seven of the acts of the legislature of one  
thousand nine hundred and seventeen, entitled "An act to provide at  
general and primary elections for double election boards and to facili-  
tate the counting and declaration of the vote" and made a part of  
chapter three of the code of West Virginia, and known as sections  
thirty-three-a, thirty-three-b, thirty-three-c, thirty-three-d, thirty-  
three-e, and thirty-three-f, of chapter three of the said code, is hereby  
repealed.

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## House Bill No. 21

[BY MR. BLIZZARD.]

Introduced January 13, 1919. Referred to the Committee on  
Mines and Mining. February 5, reported back with the recom-  
mendation that it do pass; February 7, taken up out of its regular

order for consideration, read a first time and ordered to its second reading.

A BILL to amend and re-enact section forty-seven of chapter fifteen-h of the code of West Virginia (Barnes' edition one thousand nine hundred and sixteen) relating to the weighing of coal.  
*Be it enacted by the Legislature of West Virginia:*

That section forty-seven of chapter fifteen-h of the code of West Virginia (Barnes' edition one thousand nine hundred and sixteen), be amended and re-enacted so as to read as follows:

Section 47. It shall be the duty of every corporation, company or person engaged in the business of mining coal, where ten or more miners are employed, to pay the miners thereof by weight, and they shall procure and constantly keep on hand at the proper place, the necessary scales and whatever else may be necessary, to correctly weigh the coal mined by such company, corporation or person. And it shall be the duty of the sealer of weights and measures for every county in which coal is so mined and sold to visit each coal mine operated therein and where such scales are kept, at least twice in each year, and test the correctness of such scales. The owner or operator of such coal mine, or any five or

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more of the miners working therein, may in writing require his attendance at the place where such scales are kept, at other times, in order to test the correctness thereof, and it shall be his duty to comply with such request as soon as he can, after receiving such request. If his attendance is required by the owner or operator of such mine, or by the miners working therein, and the scales tested be found not to be correct, his fees shall be paid by the owner or operator, and if his attendance be required by the miners and the scales tested be found to be correct his fees shall be paid by them. If in any such county there be no sealer of weights and measures the state sealer of weights and measures shall be called at the discretion of the employer or employees to perform the duties therein required of such sealer.

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## House Bill No. 229

[BY MR. STAROHER.]

Introduced January 31, 1919. Referred to the Committee on Labor. February 4, reported back with the recommendation that it

do pass; February 7, taken up out of regular order for consideration, read a first time and ordered to its second reading.

A BILL relating to mothers' pensions.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Whenever any woman whose husband is dead or  
2 has become permanently disabled for work by reason of physical  
3 or mental infirmity or is a prisoner, or has deserted her and such  
4 desertion has continued for a period of one year, and such woman  
5 is poor and is the mother of children under the age of fourteen  
6 years, and such mother and children have been legal residents in  
7 any county of the state for one year, the county court shall make  
8 an allowance to such woman as follows:

9 First, not to exceed fifteen dollars a month, when she has but  
10 one child under the age of fourteen years, and if she has more  
11 than one child under the age of fourteen years, such allowance  
12 shall not exceed five a month for each of the other children under  
13 the age of fourteen years. The order making such allowance shall  
14 not be effective for a longer period than six months, but upon  
15 expiration of such period said court may from time to time ex-  
16 tend such allowance for a period of six months or less. The home  
17 of such woman shall be visited from time to time by a school

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18 officer, humane agent or such other agent as the court may direct.

Sec. 2. Such allowance shall be made by the county court  
2 only upon the following conditions:

3 First, the child or children for whose benefit the allowance  
4 is made must be living with the mother of such child or children.

5 Second, the allowance shall be made only when in the absence  
6 of such allowance the mother would be required to work regu-  
7 larly away from her home and children, and by means of such  
8 allowance she shall be able to remain at home with her children  
9 except by absence for work for such time as the court deems ad-  
10 visable.

11 Third, the mother must be in the judgment of the court a  
12 proper person morally, mentally and physically for the bringing  
13 up of her children.

14 Fourth, such allowance shall, in the judgment of the court,  
15 be necessary to save the child or children from neglect and to  
16 avoid the breaking up of the home of such woman.

17 Fifth, it must appear to be for the benefit of the children to  
18 remain with such mother.

19 Sixth, a careful preliminary examination of the home of such  
20 mother must first have been made by a school officer, humane  
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21 agent or such other competent person or agent as the court may  
22 direct, and a written report of such examination filed.

Sec. 3. It shall be the duty of the county court to make an  
2 appropriation of such sum as may be necessary for the purpose of  
3 paying such allowances as may be made during the year. Appeal  
4 from the decision of the county court on application for allowance  
5 shall be made to the judge of the circuit court. The county court  
6 shall lay before the circuit judge in cases of appeal all evidence  
7 secured by them, and the judge may secure such additional evi-  
8 dence as he may deem necessary before rendering a decision,  
9 which shall be binding on both county court and applicant for  
10 allowance.

Sec. 4. All payments of allowances as herein provided shall be  
2 made on warrants drawn as other county warrants are drawn and  
3 paid by the sheriff out of such fund.

Sec. 5. A petition for such an allowance may be made by  
2 any woman coming within the purview of this act, or it may be  
3 made on her behalf by any school officer or humane agent, and  
4 when such petition is filed, it shall be set down for hearing at a  
5 time fixed by the court, and the report of the school officer,  
6 humane agent or such other agent designated by the court to  
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7 make the examination and report as required by section two of  
8 this act shall be filed on or before such hearing, and upon the  
9 date fixed the court shall hear said report and any other evidence  
10 that may be offered, and at the conclusion of the same make such  
11 order as to the court seems proper in such matters.

Sec. 6. All acts and parts of acts in conflict of this act are  
2 hereby repealed.

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ENGROSSED

## House Bill No. 27.

[BY MR. MCCLINTIC.]

A BILL to amend and re-enact section twenty-five of chapter one  
hundred and fifty-nine of the code of West Virginia, Barnes'  
edition, one thousand nine hundred and sixteen, relating to dis-

charge of persons indicted for felony upon failure of state to try.  
*Be it Enacted by the Legislature of West Virginia:*

That section twenty-five of chapter one hundred and fifty-nine of the code of West Virginia, Barnes' edition of one thousand nine hundred and sixteen, be amended and re-enacted to read as follows:

Section 25. Every person charged with a felony and re-  
 2 manded by a court for trial, shall be forever discharged from the  
 3 prosecution of the offense, if it shall appear from the record that  
 4 the accused appeared and demanded trial at three regular terms  
 5 of such court after the indictment was found against him and that  
 6 the case was continued, unless the failure to try him was caused  
 7 by his insanity; or by the witnesses for the state being enticed or  
 8 kept away, or prevented from attending by sickness or inevitable

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9 accident; or by a continuance granted on motion of the accused;  
 10 or by reason of his escaping from jail or failing to appear accord-  
 11 ing to his recognizance; or by reason of the jury being discharged  
 12 or dispensed with on account of fire, flood or the condition of the  
 13 public health; or of the inability of the jury to agree in their  
 14 verdict.

## House Bill No. 235

[BY MR. CUPPETT, BY REQUEST.]

Introduced February 3, 1919. Referred to the Committee on the Judiciary. February 7, reported back with the recommendation that it do pass. February 15, coming up in regular order for consideration, was read a first time and ordered to its second reading. A BILL to amend and re-enact section one of chapter one hundred nineteen of the code of West Virginia, relating to attorneys at law.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter one hundred nineteen of the code of West Virginia, be and the same is hereby amended and re-enacted so as to read as follows:

*License to Practice.*—Any person desiring to obtain license to  
 2 practice law in the courts of the state, must appear before the  
 3 county court of the county of which he has resided for the last



4 preceding year and prove to the satisfaction of such court that he  
5 is a person of good moral character, that he is twenty-one years of  
6 age, that he has resided in such county for one year next pre-  
7 ceding date of his appearance, and upon such proof being made,  
8 the court shall make and enter an order on its record accordingly.

9 There is hereby created a board to consist of one member from  
10 each congressional district of the state which board shall be  
11 known as the Law Examining Board, and shall be appointed by  
12 the governor, and the terms of office of the members of this board

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13 shall be four years; *provided*, that of the first appointees to said  
14 board, three members shall serve for two years, and three shall  
15 serve for four years, and that on the expiration of said terms,  
16 new appointments shall be made for the period of four years,  
17 and in case of vacancies occurring on said board, the governor  
18 shall appoint a successor to serve the unexpired term.

19 The members of said board must be duly licensed practicing  
20 attorneys at law who have practiced in the courts of this state and  
21 in the supreme court of appeals for not less than five years, and  
22 they shall be appointed by the governor and confirmed by the  
23 senate. A majority of said members of this board shall constitute  
24 a quorum.

25 The said board shall prescribe and publish rules and regu-  
26 lations for the examination of all applicants for admission to prac-  
27 tice law which shall include the period of study and degree of  
28 preparation required of applicants previous to being admitted, as  
29 well as to the method of examinations, and time and place of  
30 holding same. Said board shall meet and hold at least two ex-  
31 aminations each year. And the supreme court of appeals shall  
32 upon the production of a duly certified copy of the order of the  
33 county court, hereinbefore mention'd, and upon the certified re-  
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34 port of said examining board, that the applicant has upon an  
35 examination conducted in accordance with such rules and regu-  
36 lations as herein stated, qualify to practice law in the courts of  
37 this state, issue said applicant a license to practice, and such  
38 license shall upon its face show that all the provisions of this  
39 section and of said rules have been complied with; *provided*.  
40 that any person who shall produce a duly certified copy of such  
41 order of any county court of this state, and also a diploma of  
42 graduation from the law school of the West Virginia university,

43 shall be entitled to practice in any and all courts of this state,  
 44 and the order so admitting him shall state the facts pertaining  
 45 to the same.

46 Every applicant for the examination required by this section  
 47 shall pay a fee of five dollars, to be applied to the payment of the  
 48 costs and charges of conducting said examinations.

Sec. 1-a. Each member of the board referred to in the  
 2 foregoing section shall receive ten dollars for each day actually  
 3 employed in the discharge of his official duties in addition to  
 4 his necessary expenses, including transportation to and from the  
 5 places of meeting while so engaged therein, and no money shall  
 6 be paid to any member until he has made a full itemized state-  
 7 ment and sworn to the same.

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ENGROSSED

## House Bill No. 83.

[BY MR. JOHN.]

A BILL to amend chapter one hundred and twenty-five of the code  
 of West Virginia, relating to rules and pleadings by adding  
 thereto a section preventing the dismissal of meritorious actions  
 at law, suits in equity or other proceedings because of mischoice  
 of the form of action or the forum.

*Be it Enacted by the Legislature of West Virginia:*

Section 1. That chapter one hundred and twenty-five of the  
 2 code of West Virginia be amended by adding thereto, after section  
 3 sixteen thereof, a section numbered 16-a, as follows:

Sec. 16-a. No action at law, suit in equity or other pro-  
 2 ceedings in any court of record shall abate by reason of mis-  
 3 choice of the form of action or the forum. In case of mischoice  
 4 of the form of the action, suit or other proceedings, the writ,  
 5 declaration, bill or other proceedings may be amended, at the bar  
 6 of the court or at rules, so as to conform the same to the nature  
 7 of the cause of action stated; and in case of mischoice of the forum,

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8 the action, suit or other proceedings shall be transferred to the  
 9 court having cognizance of the cause of action disclosed by the  
 10 pleading, with right to amend the same, or to file other plead-  
 11 ings, at the bar of the court or at rules, as the nature of the case  
 12 may require. Such amendment of the pleadings or transfer of the

13 case shall not affect the jurisdiction of the court over the parties  
14 duly served with process or over any property involved in the  
15 action, suit or other proceedings, but the case shall be proceeded  
16 in without further process except against new parties introduced  
17 by amended pleadings. This action shall not be construed to  
18 abolish the distinction between forms of action or to alter the  
19 existing rules of practice and principles of law governing the  
20 maturing or trial thereof.

21 All acts and parts of acts within the purview of this act and  
22 inconsistent with it are hereby repealed.

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## House Bill No. 274

[BY MR. GODFREY.]

Introduced February 10, 1919. Reference to a committee dispensed with; February 12, read a first time and ordered to its second reading. A BILL fixing the annual allowance to the clerk of the circuit court of Mercer county.

*Be it enacted by the Legislature of West Virginia:*

Section 1 The county court of Mercer county shall annually  
2 allow to the clerk of the circuit court of said county the sum  
3 of not less than fifteen hundred dollars nor more than three  
4 thousand dollars, payable monthly, for his public services, for  
5 which no other fee or award is allowed by law. Said salary to  
6 begin on the first day of January, one thousand nine hundred and  
7 nineteen and to end on the thirty-first day of December, one  
8 thousand nine hundred and twenty, and that this act shall in  
9 no wise conflict with the salary act of said clerk now on the statute  
10 books to begin January first, one thousand nine hundred and  
11 twenty-one.

Sec. 2. All acts, or parts of acts, in conflict herewith are  
2 hereby repealed.

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## House Bill No. 236

[BY MR. BYRNES.]

Introduced February 3, 1919. Referred to the Committee on the Judiciary. February 4, reported back with the recommendation that it do pass; February 12, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL relating to manner of sentencing persons to the West Virginia state penitentiary at Moundsville, and to the release of such persons; amending chapter one hundred and sixty-three of Barnes' code, one thousand nine hundred and eighteen, by adding section forty-six-a thereto, preventing such persons so released from becoming residents of Marshall county, West Virginia, for a period of five years.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Every sentence to the penitentiary hereafter imposed by courts other than the circuit court of Marshall county, or any other tribunal established in lieu thereof, in addition to the penalty fixed by statute for the offense committed, shall contain the further penalty and condition that the person so sentenced shall not, for a period of five years next succeeding his release from said institution, become a resident of Marshall county, West Virginia, nor visit nor be in said county for any purpose except to travel through said county as a *bona fide* passenger en route to some destination outside of said county. For the purpose of enforcing the provisions of this act all per-

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sons so sentenced shall be and remain as in the custody of the warden of said institution for the full period of five years next succeeding his said release, whether by expiration of the sentence specified for the offense committed, or parole, or pardon; and the said warden upon being advised that any person so released from said institution is found in said county of Marshall, shall immediately cause such person to be apprehended, and if upon investigation, such person is found to have violated the provisions of this act, he shall immediately be re-incarcerated in said institution for a period of five years, or until such time as he shall be released by the governor or parole board, or as otherwise provided by law.

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## House Bill No. 291

[BY MR. LANTZ.]

Introduced February 12, 1919. Reference to a committee dispensed with; ordered to first reading on special calendar; February 12, read a first time and ordered to its second reading.

A BILL to authorize the board of education of Grant district, Wetzel county, to borrow or otherwise secure sufficient funds to finish constructions of public school buildings in the district of Grant, Wetzel county, and to empower them to lay a special levy to provide funds for paying same with interest.

WHEREAS, The board of education of Grant district, Wetzel county, has heretofore begun the building and construction of public school buildings in the district of Grant, and

WHEREAS, The funds provided for said purpose have been exhausted, and

WHEREAS, It is necessary to at once complete the construction of said buildings to prevent severe damage to same, therefore,

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of education of Grant district, Wetzel county, is hereby authorized and empowered to borrow or otherwise secure sufficient funds and to pay a proper and lawful rate of interest for same for the purpose of completing public school buildings now under course of construction in the district of Grant, and the said board of education is hereby authorized to

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lay and continue to lay each year on the assessed valuation of all taxable property of said Grant district in addition to all other taxes a "special debt levy" not to exceed thirty cents on the one hundred dollars in any one school year until such debt is paid.

Sec. 2. Such levy shall be assessed and collected as otherwise provided by law and the proceeds of the same shall be used for the purpose of paying such loan or debt and interest, and for none other.

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ORDERED PRINTED BY COMMITTEE.

## House Bill No. 59.

[BY MR. JOHN.]

Introduced January 14, 1919. Referred to the Committee on the Judiciary. January 16, ordered printed by the Committee on the Judiciary.

A BILL in relation to persons, firms and corporations engaged in furnishing, or required by law to furnish, natural gas for public

of this act and penalties and punishment for violations thereof, and to extend the jurisdiction of the public service commission use within this state, to provide remedies for the enforcement and of the courts of this state with respect thereto.

*Be it Enacted by the Legislature of West Virginia:*

Section 1. That every person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use or for the use of the public, or any part of the public, whether for domestic, industrial or other consumption, within this state, shall to the extent of his supply of said gas produced in this state, (whether produced by such person or by any other person), furnish for public use within the territory of this state, and for the use of the public and every part of the public within the territory of this state, in or from which such gas is produced, or through which said gas is transported, or which is served by such person, a supply of natural gas reasonably

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adequate for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed or desired to be consumed by the public, or any part of the public, within said territory in this state, and for which said consumer or consumers therein shall apply and be ready and willing to make payment at lawful rates.

Section 2. That in case any person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, or for the use of the public or any part of the public within this state, shall have a production or supply of natural gas which is, or probably will be, insufficient to furnish for such use, (for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed by the public or any part of the public), within the territory in this state served by such person, then and in that event the public service commission shall have authority, and the same is hereby conferred on it, upon the application of any such person or any of his consumers within this state and after due hearing upon notice and proof to the satisfaction of the commission that public convenience and necessity so require, to order any other person engaged in furnishing, or required by law (whether statu-

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tory or common law) to furnish, natural gas for public use within

17 this state, and producing or furnishing natural gas for public  
18 use in said territory or transporting the same through said terri-  
19 tory, to furnish to such person having such insufficient produc-  
20 tion or supply, natural gas for the purpose of supplying such  
21 deficiency, at and during such times, upon and at such just  
22 and reasonable terms, conditions and rates, and in such amounts,  
23 as the commission shall prescribe. And whenever, after such  
24 hearing upon notice and proof, the commission shall determine  
25 that public convenience and necessity so require, the commission  
26 shall have authority to provide for and compel the establishment  
27 of a reasonable physical connection or connections between the  
28 lines, pipes or conduits of such person having such excess supply  
29 of gas and the lines, pipes or conduits of the person having such  
30 deficiency of supply, and to require the laying and construction  
31 of such reasonable extensions of lines, pipes or conduits as may  
32 be necessary for the establishment of such physical connection or  
33 connections, and to ascertain, determine and fix the just and  
34 reasonable terms and conditions of such connection or connec-  
35 tions, including just and reasonable rules and regulations and  
36 provision for the payment of the costs and expense of making the

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37 same or for the apportionment of such cost and expense as may  
38 appear just and reasonable.

39 *Provided*, however, that no person shall, by virtue of this  
40 section, be ordered to furnish natural gas to any other person so  
41 engaged in furnishing, or required by law to furnish, natural gas  
42 for public use, except to the extent that the person so ordered to  
43 furnish natural gas shall, at the time, have a production or supply  
44 of natural gas in excess of the quantity sufficient to furnish a  
45 reasonably adequate supply to his consumers within this state;  
46 nor shall any person, by virtue of this section, be ordered to fur-  
47 nish natural gas to any other person so engaged in furnishing or  
48 required by law to furnish, natural gas for public use in a terri-  
49 tory within this state, if and when the said person having said ex-  
50 cess shall, to the extent of such excess, be ready and willing to  
51 furnish, and within such time as the commission shall prescribe  
52 shall actually furnish, to the consumers within said territory a  
53 reasonably adequate supply of natural gas.

Section 3. That insofar as the same shall not be in conflict  
2 with this act, all of the authority, powers, jurisdiction and duties  
3 conferred and imposed on the public service commission by the

4 act entitled, "An act to create a public service commission and to  
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5 prescribe its powers and duties, and to prescribe penalties for the  
6 violations of the provisions of this act," passed February twenty-  
7 one, one thousand nine hundred and thirteen, as amended by the  
8 act entitled, "An act to amend and re-enact sections one, two,  
9 three, four, five, nine, ten, fourteen, fifteen and twenty-two, of  
10 chapter nine of the acts of one thousand nine hundred and thir-  
11 teen, creating a public service commission, prescribing its powers  
12 and duties, and penalties for violation of the provisions of said  
13 chapter, and to add thereto six sections to be known as sections  
14 twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven  
15 and twenty-eight, enlarging the powers and duties of said public  
16 service commission, prescribing additional penalties and giving to  
17 the commission power to punish for contempt," passed February  
18 ten, one thousand nine hundred and fifteen, are hereby conferred  
19 and imposed on the public service commission in respect to the sub-  
20 ject matter of this act, or any part thereof.

Section 4. That in case of violation of any provision of this  
2 act any person aggrieved or affected thereby may complain thereof  
3 to the public service commission in like manner, and thereupon  
4 such procedure shall be had, as is provided in respect to other  
5 complaints to or before said commission, and all such proceed-

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6 ings and remedies may be taken or had for the enforcement or  
7 review of the order or orders of said commission, and for the  
8 punishment of the violation of such order or orders, as are pro-  
9 vided by law in respect to other orders of said commission. In  
10 case of the violation of any provision of this act, the public ser-  
11 vice commission, or any person aggrieved or affected by such  
12 violation, in his own name, may apply to any court of competent  
13 jurisdiction by a bill for injunction, petition for writ of mandamus  
14 or other appropriate action, suit or proceeding, to compel obedi-  
15 ence to and compliance with this act, or to prevent the violation  
16 of this act, or any provision thereof, pending the proceedings  
17 before said commission, and thereafter until final determination  
18 of any action, suit or proceeding for the enforcement or review  
19 of the final order of said commission; and such court shall have  
20 jurisdiction to grant the appropriate order, judgment or decree  
21 in the premises.

Section 5. That if any person subject to the provisions of



2 this act shall fail or refuse to comply with any requirement of  
3 the commission hereunder, such person shall be subject to a fine  
4 of not less than one hundred dollars nor more than five hundred  
5 dollars for each offense; and such person, or the officers of the  
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6 corporation, where such person is a corporation, may be indicted  
7 for their failure to comply with any requirement of the commis-  
8 sion under the provisions of this act, and upon conviction thereof,  
9 may be fined not to exceed five hundred dollars, and in the dis-  
10 cretion of the court, confined in jail not to exceed thirty days.  
11 Every day during which any person, or any officer, agent or  
12 employee of such person, shall fail to observe and comply with  
13 any order or direction of the commission, or to perform any duty  
14 enjoined by this act, shall constitute a separate and distinct viola-  
15 tion of such order or direction of this act, as the case may be.

Section 6. That any person claiming to be damaged by any  
2 violation of this act may bring suit in his own behalf for the  
3 recovery of the damages from the person or persons so violating  
4 the same in any circuit court having jurisdiction. In any such  
5 action the court may compel the attendance of the person or  
6 persons against whom said action is brought, or any officer, direc-  
7 tor, agent or employee of such person or persons, as a witness,  
8 and also require the production of all books, papers and docu-  
9 ments which may be useful as evidence, and in the trial thereof  
10 such witness may be compelled to testify, but any such witness  
11 shall not be prosecuted for any offense concerning which he is

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12 compelled hereunder to testify.

Section 7. That the word "person" within the meaning of  
2 this act shall be construed to mean, and to include, persons, firms  
3 and corporations.

Section 8. That the sections, provisions and clauses of this  
2 act shall be deemed separable each from the other, and also in  
3 respect to the persons, firms, corporations and consumers men-  
4 tioned therein or affected thereby, and if any separable part of  
5 this act be, or be held to be unconstitutional or for any reason  
6 invalid or unenforceable, the remaining parts thereof shall be  
7 and remain in full force and effect.

Section 9. That all acts and parts of acts in conflict with  
2 this act are hereby repealed.

## ENGROSSED.

## House Bill No. 258

[BY MR. RICHARDS, BY REQUEST]

A BILL to amend and re-enact sections fifty-a, twenty-eight-b-(1), fifty-b, twenty-eight-b-(2), fifty-h, twenty-eight-b-(8), fifty-l, twenty-eight-b-(12), fifty-yy, twenty-eight-b-(29) of chapter three of Hogg's code of West Virginia relating to primaries and convention nominations, and providing for the ascertainment and publication of the results thereof.

*Be it enacted by the Legislature of West Virginia:*

That sections fifty-a, twenty-eight-b-(1), fifty-b, twenty-eight-b-(2), fifty-h, twenty-eight-b-(8), fifty-l, twenty-eight-b-(12), fifty-yy, twenty-eight-b-(29) of chapter three of Hogg's code (suppliment), of West Virginia, be amended and re-enacted so as to read as follows:

Section 50-a, 28-b (1). Hereafter the members of all state executive committees, and county executive committees, of every political party except as hereinafter provided, shall be chosen, and all candidates for political parties to be voted for by the people, except candidates for state offices, delegates to the national conventions of the several political parties, candidates for United States senator, candidates for membership in the United States house of representatives, candidates for judges of the su-

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preme court of appeals, and such candidates as are to be voted for at special elections to fill vacancies, presidential electors and candidates for office to be filled by cities, towns or villages, in which less than fourteen hundred votes were cast in the last preceding election therein, shall be nominated by a direct primary election, held in accordance with this act. For the purpose of this act a municipality shall be taken to be an incorporated town or city which cast fourteen hundred or more votes in the last preceding election therein. A political party shall be taken to be an affiliation of electors representing a political party or organization, which at the last preceding general election polled for its candidates for governor, at least one per centum of the total vote cast for that office in the state.

Sec. 50-b, 28-c (2). Primary elections, for the purposes of this act, other than for nominating municipal candidates, shall be held in each election precinct in the state on the first Tuesday

4 in May, next before the general election in the year in which a  
 5 president of the United States is to be elected; and in all other  
 6 years, on the first Tuesday in August, next before every general  
 7 election, and they shall be known and designated as the May and  
 8 August primaries, respectively. The time of holding any such  
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9 general primary election, and a statement describing the object  
 10 thereof shall be published in two newspapers, if such there be, of  
 11 the two opposite parties which polled the largest number of votes,  
 12 at the preceding general election, and published in each county of  
 13 the state, once a week for two successive weeks next preceding the  
 14 date of any such primary election. It shall be the duty of the  
 15 secretary of state to prepare and publish such statement, and the  
 16 expense of such publication shall be paid out of the fees provided  
 17 for in this act. The time for holding primaries for the purpose  
 18 of nominating municipal candidates and the form of ballot used  
 19 at such elections, shall be fixed by charter or ordinance of the  
 20 respective municipalities; *provided*, that no such municipal pri-  
 21 mary shall be held on the same day of the general primary. At  
 22 all primary elections the polls shall be opened at six-thirty o'clock,  
 23 A. M. and closed at thirty minutes after six o'clock, P. M. Primaries  
 24 shall be conducted in one room at the regular voting place in  
 25 each precinct.

Sec. 50-h., 28-b (8). Any person who is eligible to hold any  
 2 office, including members of a state or county executive committee  
 3 and delegates to any party convention, to be held as hereinafter  
 4 provided, shall file with the secretary of state, if it be an office to

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5 be filled by the voters of more than one county, or with the clerk  
 6 of the circuit court, if it be for an office to be filled by the voters  
 7 of a county or a sub-division less than a county, a certificate de-  
 8 claring himself a candidate for the nomination for such office,  
 9 which certificate shall be in form or effect as follows:

10 I, ....., hereby certify that I am a can-  
 11 didate for the nomination of.....to represent.....party,  
 12 and desire my name printed on the official ballot of said party  
 13 to be voted at the primary election to be held on the.....day  
 14 of.....19....; that I am a legally qualified voter of  
 15 the county of....., state of West Virginia: that my  
 16 residence is number....., of.....street, in the city (or town)  
 17 of....., in the county of....., said state; that

18 I am eligible to hold the said office; that I am a member of and  
 19 affiliated with said political party and that I am a candidate for  
 20 said office in good faith.

21 .....  
 22 (Signature of candidate.)

23 Subscribed to and acknowledged to before me this.....day  
 24 of....., 19.....

25 .....  
 26 (Signature of officer taking acknowledgement)

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27 Such acknowledgement shall be signed and acknowledged by  
 28 the candidate before some officer qualified to administer oaths,  
 29 who shall certify the same; *provided*, that no person may be a  
 30 candidate for nomination to office in any political party, unless  
 31 it be openly known that such person is a *bona fide* member of  
 32 such party.

Sec. 50-l, 28-b (12). The face of every primary election  
 2 ballot shall conform as nearly as practicable to the form given  
 3 below, and in general effect shall resemble the form of ballot  
 4 used in the general election. It shall contain at the left of each  
 5 column of names of candidates a perpendicular column, and so  
 6 printed as to leave a square at the left of each name on the ballot.  
 7 In the first column shall be placed the names of candidates for  
 8 the state senate, the names of candidates for membership on the  
 9 state executive committee, the state senatorial executive committee,  
 10 the congressional executive committee, the judicial committee and  
 11 the names of all candidates for county offices, including judges of  
 12 the circuit, criminal or intermediate courts, and members  
 13 of the house of delegates. In the second column shall be placed  
 14 the names of all candidates for office in the magisterial districts,  
 15 including members of the county executive committee, and can-

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16 didates for delegateships to the several conventions provided for  
 17 in this act. The secretary of state, or circuit clerk, as the case  
 18 may be, shall arrange the names of the candidates, to be printed  
 19 on the ballot, in alphabetical order, according to the surname,  
 20 under the title of the respective offices for each office division upon  
 21 the ballot. The face of the primary ballot shall conform as nearly  
 22 as practicable to the form given below:

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23

## OFFICIAL BALLOT OF

24

The.....Party.

25

Primary Election.....19.....

26

To vote for candidates make an (x) in square opposite name.

| State Senatorial<br>and County                  | Magisterial District                            |
|---|---|
| For State Senator<br>(Vote for one)             | For Justice of Peace<br>(Vote for one)          |
| A..... B.....<br>C..... D.....<br>E..... F..... | A..... B.....<br>C..... D.....<br>E..... F..... |
| For Sheriff<br>(Vote for one)                   | For Constable<br>(Vote for one)                 |
| A..... B.....<br>C..... D.....<br>E..... F..... | A..... B.....<br>C..... D.....<br>E..... F..... |
| For Prosecuting Attorney<br>(Vote for one)      | For County Committee<br>(Vote for one)          |
| G..... H.....<br>K..... L.....<br>O..... P..... | I..... J.....<br>M..... N.....<br>Q..... R..... |
| For House of Delegates<br>(Vote for...)         | Delegates to Co. Convention<br>(Vote for...)    |
| T..... U.....<br>V..... W.....<br>Etc.          | B..... A.....<br>D..... G.....<br>Etc.          |

27 All ballots used in primary elections shall be printed on paper  
 28 conforming as nearly as practicable in weight, texture and color,  
 29 to the samples furnished by the secretary of state, and the paper  
 30 shall be sufficiently thick so that the printing shall not be dis-  
 31 cernable from the back. On the back of the ballot shall be

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32 printed in black ink, and in plain, legible, black faced pica type  
 33 the name of the political party as contained in the heading fol-  
 34 lowed by the word "ballot"; under this designation shall be  
 35 printed two black lines followed by the words "poll clerks."

Sec. 50-yy, 28-b (29). Nominating conventions, for the  
 2 purpose of this act, other than for nominating municipal candi-

3 dates, shall be held not later than ten days after holding the  
4 primary elections, in each year in which a president of the United  
5 States is to be elected; and not later than ten days after the  
6 primary election which is to be held on the first Tuesday in Aug-  
7 ust, in each year, other than a presidential year, in which a United  
8 States senator, a judge or judges of the supreme court of appeals  
9 or any state officer is or are to be elected. At such nominatng  
10 conventions, in the respective years when such nominations are to  
11 be made, there shall be nominated candidates for the following  
12 respective offices: A United States senator, governor, secretary  
13 of state, state superintendent of free schools, treasurer, auditor,  
14 attorney general, commissioner of agriculture, judge of the su-  
15 preme court of appeals, presidential electors, delegates and alter-  
16 nates to national presidential nominating conventions, or nomina-  
17 tions to fill such offices in case of vacancy when so provided by  
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18 law, and there shall also be formulated and promulgated a party  
19 state platform. At the primary next preceding the holding of  
20 such conventions, there shall be elected in each magisterial district  
21 of all the counties in the state, delegates, in a number to be de-  
22 termined by proportional equity by the respective state executive  
23 committees. Such magisterial district delegates shall form a  
24 state nominating convention; the number of such delegates from  
25 each magisterial district to said state convention shall be de-  
26 termined by the respective state executive committees, based upon  
27 an equitable proportional division, according to the customs and  
28 plans as heretofore followed by like committees under previous  
29 conditions. Such state nominating conventions shall be held not  
30 more than ten days after the date of holding the primary elec-  
31 tion. Certificates of election of magisterial delegates shall be  
32 made by the several canvassing boards at their first meeting and  
33 a list of the delegates to the several conventions shall be certi-  
34 fied to the respective chairman of said committee by such can-  
35 vassing boards, and a certificate mailed to each delegate so de-  
36 clared elected, which certificate shall constitute the credentials  
37 of the several magisterial delegates and shall entitle the said dele-  
38 gate to a seat and vote in the respective conventions to which

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39 they are elected and such credentials shall not be reviewable by  
40 any political body or committee. All nominations made by a  
41 state nominating convention shall be certified by the officers

42 thereof to the secretary of state, who shall forthwith certify the  
43 same, under his name and the lesser seal of the state, and file the  
44 same in his office, and make and transmit a duplicate thereof, by  
45 registered mail, to the clerk of the circuit court of each county  
46 in the state, in which such candidate or candidates is or are to  
47 be voted for. Said certification to be made by the secretary of  
48 state as herein provided shall give the name and residence of  
49 each candidate; the name of the office for which he is a candi-  
50 date, and upon what ballot his name is to be printed as such  
51 candidate. Candidates for the United States house of repre-  
52 sentatives, shall also be nominated by similar conventions in their  
53 respective districts, and the results similarly certified to the clerks  
54 of the counties composing such districts. Delegates to the con-  
55 gressional conventions shall be elected by the voters of the several  
56 magisterial districts in the counties wherein the respective can-  
57 didates are to be voted for and the number of such delegates  
58 shall be determined by the respective committees as heretofore  
59 provided for. The respective executive committees of each party  
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60 shall have the right and power to adopt such rules as they shall  
61 see fit to govern the organization of such conventions, which are  
62 not in conflict or inconsistent with the provisions of this act.  
63 Any nominations so made shall have the same force and effect as  
64 if made by a primary.

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PRINTED BY ORDER OF COMMITTEE.

## House Bill No. 89.

[BY MR. RICHARDS.]

Introduced January 16, 1919. Referred to the Committee on  
Medicine and Sanitation. Ordered printed by the Committee on  
Medicine and Sanitation.

A BILL continuing the West Virginia State Board of Embalmers,  
providing for the appointment of its members, describing the  
duties of the said board and its members, providing systematic  
examinations, registrations, regulations, and licenses, for all per-  
sons who practice the art of embalming within the State of  
West Virginia, and providing penalties for violations thereof.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There shall continue to be a West Virginia State Board of Embalmers, consisting of one member residing in each congressional district within the state, from among the most competent embalmers of said district, each of whom shall have been a resident of this state for at least five years, and of at least five years' practical experience in the profession. To fill vacancies on the existing board, caused by the expiration of the terms for which its present members were appointed, the governor shall in the month of May, nineteen hundred and nineteen nominate and, by and with the advice and consent of the senate, appoint two members of said Board, to fill all vacancies then occurring, whose terms of office shall be and continue for three

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13 years from the first day of June, nineteen hundred and nineteen, and in like manner he shall appoint two members in May, nineteen hundred and twenty, whose terms of office shall be and continue for three years from the first day of June, nineteen hundred and twenty-one. All vacancies occurring on said board shall be filled by appointment by the governor for the unexpired terms, and immediately upon the occurrence of vacancies and upon expiration of terms, the governor shall make appointment under the conditions in this act prescribed.

Sec. 2. Each person appointed upon said board shall take the oath of office prescribed by the fifth section of the fourth article of the constitution of this state before entering upon the duties of his office, and shall file a certificate of his having done so with the secretary of state. The said members shall organize as a board by electing from their own members a president, a vice-president, a secretary, and a treasurer, and by adopting all necessary rules, regulations and by-laws, not inconsistent with the laws of this state and the United States, to enable it to transact its business and perform its duties under the provisions of this act. All rules and regulations of said board pertaining to the transporting of dead human bodies, the preservation of dead human bodies, H. B. No. 89]

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13 disinfecting the bodies of deceased persons, the bedding, clothing, and apartments in cases of death from contagious or infectious diseases, or any other subject relating to the practice of the art of embalming as affecting the public health, shall have the same force and effect as if specifically incorporated in this act. The



18 board shall require its secretary and its treasurer to enter into a  
19 bond in such sum as it may deem sufficient, and such bond when so  
20 executed shall be filed with the Secretary of State.

Sec. 3. The members of the board shall receive a salary of  
2 five dollars per day for their services and attendance at such meet-  
3 ing and for the performance of their official duties; the secretary  
4 shall receive a salary to be fixed by the board, not to exceed three  
5 hundred dollars per annum; the treasurer shall receive a salary to  
6 be fixed by the board, not to exceed fifty dollars per annum; and  
7 the said salaries together with the proper payment for stenog-  
8 rapher's services in reporting the proceedings of the board, cor-  
9 respondence and other typing and accounting, stationery, express-  
10 age, postage, membership in the Conference of Embalmers' Ex-  
11 amining Boards of North America, and payment of the expenses  
12 of delegates attending the conference, and the traveling and other  
13 expenses of the board and its members incurred in the actual

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14 performance of official duties shall be paid out of such appropria-  
15 tions as shall be made by the legislature as hereinafter provided,  
16 but said appropriations shall not exceed the revenues and receipts  
17 of said board.

Sec. 4. The said board shall hold its annual meeting on the  
2 third Tuesday in June of each year, for the transaction of any and  
3 all business that may properly come before it. Special meetings  
4 may also be held, when called by the President or by any two  
5 members of the board, as often as the proper and efficient dis-  
6 charge of its duties may require. A majority of members present  
7 shall constitute a quorum. The secretary shall with reasonable  
8 promptness prepare and forward a transcript of the proceedings of  
9 each meeting to the Governor.

Sec. 5. Before any person shall hereafter engage in the prac-  
2 tice of the art of embalming dead human bodies, who has failed to  
3 secure a certificate or license as provided in sections five and six  
4 of chapter sixty of the acts of the legislature of 1899, such person  
5 shall secure a license from the said board under the following con-  
6 ditions: Each applicant shall have at least three years of practical  
7 experience in embalming under some competent licensed embalmer,  
8 shall have assisted in embalming at least twenty-five dead human  
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9 bodies, be of good moral character, be not less than twenty-one  
10 years of age, and shall secure the certification of at least three

11 licensed embalmers or three other citizens of this state of standing  
12 satisfactory to said board of embalmers. *Provided, however, that*  
13 if said person shall have a certificate of graduation from any  
14 college of embalming approved by said board, secured after a  
15 course of study of at least twenty-six weeks, then the requirement  
16 as to time of service under a licensed embalmer may be reduced  
17 from three years to one year. Such person shall apply to said  
18 board for a license to practice the art of embalming, and there-  
19 upon the said applicant shall present himself for examination,  
20 before said board, at a time and place to be selected by said board,  
21 and if upon due examination the said board shall find that the  
22 said applicant is of good moral character, possessed of knowledge  
23 generally, and particularly possessed of skill and knowledge of  
24 the visceral anatomy and the vascular system of the human body;  
25 the action and comparative value of germicides and other chemical  
26 agents in use by embalmers; disinfecting and preparing dead  
27 human bodies for burial or transportation; the meaning of con-  
28 tagion and infection, the dangers they beget, and the best means  
29 of their restriction and arrest; the signs of death, and the manner

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30 in which they are determined; disinfecting bedding, clothing and  
31 apartments in cases of death from contagious or infectious dis-  
32 cases; and the rules covering the shipment and transportation of  
33 bodies dead from contagious or infectious diseases; the board shall  
34 issue to such applicant, upon the payment of a fee of twenty-five  
35 dollars, a license to practice the art of embalming dead human  
36 bodies, and shall register said applicant as a duly licensed em-  
37 balmer in any other state or territory of the United States, and  
38 who produces a certificate from such other state or territory to  
39 show that he has passed a successful examination in the art of  
40 embalming dead human bodies, and who shows to the satisfaction  
41 of said board that he is a person of good moral character, may, at  
42 the election of the board, be entitled to a license to practice said  
43 art of embalming in the State of West Virginia, upon the payment  
44 of the license fee of twenty-five dollars. *Provided, however, that*  
45 said board shall not be required to issue and grant such license to  
46 any person holding any certificate from any state or territory, if  
47 such state or territory, in the opinion of the board, imposes un-  
48 reasonable restrictions upon persons who are fully licensed under  
49 the laws of the State of West Virginia, and who desires to practice

50 the art of embalming in such other state or territory. Said board  
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51 is authorized to issue a license upon due examination, to any  
52 employee of any person, firm or corporation engaged in the busi-  
53 ness of undertaking, provided that said employee shall meet all the  
54 requirements hereinbefore enumerated, and such license shall be  
55 issued to such applicant for his employer, in the following manner:  
56 "John Doe (for Jones and company)," and said employer shall be  
57 required to pay the license fee of twenty-five dollars. Such license,  
58 when so issued, shall entitle the said person, firm or corporation, as  
59 well as the said employee, to all the rights, privileges and powers  
60 given to other duly licensed embalmers, and they shall be subject  
61 to all the conditions, restrictions and penalties herein imposed upon  
62 other duly licensed embalmers. Where licenses are issued in such  
63 manner, to any employee of any firm, person or corporation, it is  
64 proper and necessary that all sworn statements, certificates, affi-  
65 davits, etc., shall be signed by the employee for his employer, thus,  
66 "John Doe, Embalmer for Jones and Company," and only the one  
67 certain employee named in such license shall practice the art of  
68 embalming, under the privilege of such license. In case of any  
69 violation of the law, both employer and employee shall be liable.  
70 The failure to pass any one examination shall not bar the unsuc-  
71 cessful applicant from presenting himself at any subsequent meet-

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72 ing of the board for re-examination, and no fee shall be required  
73 for further and additional examination.

Sec. 6. It shall be unlawful for any applicant for license to  
2 make any false, misleading, or untruthful statement with respect  
3 to his character, age, length of experience in embalming dead  
4 human bodies that he has assisted in embalming, or for any person  
5 to certify that any such false, misleading, or untruthful statement  
6 is true; and any person violating the provisions in this section  
7 contained, shall be deemed guilty of a misdemeanor, and upon  
8 conviction thereof before any court shall be sentenced to pay a  
9 fine of not less than twenty-five dollars nor more than two hun-  
10 dred dollars, or undergo imprisonment, not exceeding sixty days,  
11 for each and every offense.

Sec. 7. It shall be unlawful for any student, employee, ap-  
2 prentice, assistant or helper, or any other person to engage in the  
3 practice of the art of embalming dead human bodies, in any of its  
4 branches, unless a duly licensed embalmer is actually present and

5 the embalming is done under the personal direction and super-  
6 vision of said duly licensed embalmer. No applicant may be re-  
7 fused a license because he is not in the employ of a firm, person  
8 or corporation engaged in the undertaking business, or because he  
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9 is not engaged in the undertaking business on his own account.  
10 Any person fulfilling the requirements of this act may apply for  
11 examinations, and upon successfully passing same may secure a  
12 license and practice embalming either independently or in the  
13 employ of one or more employers. Any person violating the pro-  
14 visions in this section contained shall be deemed guilty of a mis-  
15 demeanor, and upon conviction thereof before any court shall be  
16 fined not less than twenty-five dollars nor more than two hundred  
17 dollars, or undergo imprisonment not exceeding sixty days for  
18 each and every offense.

Sec. 8. All certificates and licenses issued under sections five  
2 and six of chapter sixty of the acts of the legislature of 1899, and  
3 all licenses issued under the provisions of this act, shall be renewed  
4 annually if the holders thereof desire to continue in the practice  
5 of the art of embalming dead human bodies. Each holder of a  
6 certificate or license shall make application to the board on or  
7 before the third Tuesday in June of each year for a renewal of such  
8 certificate or license, and the said board, at the annual meeting  
9 thereof, shall grant and issue such renewals to all persons thereto  
10 entitled under the provisions of this act. No license or renewal  
11 of license or certificate shall be issued to any person not entitled

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12 thereto, under the provisions of this act. If any person in this  
13 state holding a certificate or license as an embalmer contemplates  
14 moving from one county of this state to another, such person shall  
15 make application to the secretary of the board to have his license  
16 transferred from the county in which he is then engaged in busi-  
17 ness to the county into which he intends to remove. Each and  
18 every application for either a renewal or transfer shall be accom-  
19 panied by a fee of one dollar and twenty-five cents. Said board  
20 shall have the power at any time to revoke any license or certificate  
21 heretofore or hereafter granted for proper cause. "Proper cause"  
22 with the meaning of this act shall be deemed the failure to pay the  
23 renewal fee on or before the third Tuesday in June of each year;  
24 incompetent, unprofessional or careless practice by any licensee; or  
25 failure to comply with the rules and regulations of the board. In

26 any case it shall be unlawful for any person to practice the art of  
27 embalming dead human bodies after his license shall have been  
28 revoked, or if he shall have failed to secure a renewal of his cer-  
29 tificate or license as in this section provided, until he shall secure  
30 a new license. All licenses shall be signed by a majority of the  
31 board and shall be attested over its official seal. The secretary  
32 shall, immediately after issuing any license, renewal, transfer, or  
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13

33 certificate, as provided for in sections five and eight of this act, file  
34 in the office of the clerk of the county court where the holder of  
35 such license, renewal, transfer or certificate intends to practice the  
36 art of embalming, a copy of registration thereof attested and  
37 certified. The said certified copy shall be by said clerk recorded  
38 in a book and kept for that purpose, and the said clerk shall, im-  
39 mediately upon the recordation of same, make a report of his hav-  
40 ing done so to the secretary of the board, which said report shall  
41 be in writing. The said clerk shall be entitled to a fee of twenty-  
42 five cents for recording all certified copies of such registrations,  
43 which shall be paid by the board. Said licenses shall be displayed  
44 in a prominent and conspicuous place in the office or place of  
45 business of the licensee. Said embalmer shall, when so required,  
46 disinfect and embalm the bodies of deceased persons, no matter  
47 how contagious or infectious the character of the disease may be  
48 that was the cause of death, and shall not charge unreasonable  
49 rates for such services. Should any embalmer fail to comply with  
50 the requirements of this act, he shall be deemed guilty of a mis-  
51 demeanor and shall, upon conviction in any court, be fined not  
52 exceeding two hundred dollars, nor less than twenty-five dollars,  
53 and may in the discretion of the court be confined to the county

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54 jail of the county in which the offense was committed for a term  
55 not to exceed sixty days. Upon complaint the prosecuting attorney  
56 of any county in this state, by any of its citizens, that there is  
57 reason to believe the law is being violated, the said prosecuting  
58 attorney shall have the power to examine or cause to be examined  
59 any dead human body within the state, for the purpose of ascer-  
60 taining the cause of such complaint of the violation of the em-  
61 balmer's law. In event of the inability, neglect or refusal of any  
62 such prosecuting attorney to have such dead human body examined  
63 as aforesaid, the board may, upon proper information of such  
64 inability, neglect, or refusal of any prosecuting attorney, employ

65 counsel to cause such examination to be made as will determine  
66 whether or not there has been a violation of the Embalmer's law.

Sec. 9. It shall be unlawful for any person, firm or corpora-  
2 tion to engage in the business or art of embalming dead human  
3 bodies, or to hold himself out as engaged in said business, or by  
4 word of mouth, advertisement in newspapers, distribution of cards  
5 or handbills, or by any other agency, advertise or claim to do em-  
6 balming unless he shall have complied with the provisions of  
7 sections five and six of chapter sixty of the acts of the legislature  
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15

8 of 1899, passed February 24, 1899, and amended and re-enacted  
9 in 1905, or section five of this act. Any person violating the pro-  
10 visions in this act contained shall be deemed guilty of a mis-  
11 demeanor, and upon conviction thereof in any court shall be  
12 sentenced to pay a fine of not exceeding two hundred dollars nor  
13 less than twenty-five dollars, or undergo imprisonment for a term  
14 not to exceed sixty days, for each and every offense.

Sec. 10. No license granted or issued under the conditions  
2 of this act shall be assignable, and every such license shall specify  
3 by name the person to whom it is issued, and shall designate the  
4 place or places where the particular business is to be carried on.

Sec. 11. All fees collected by the said board under the pro-  
2 visions of this act shall go into the hands of the treasurer of the  
3 board, who shall, not later than the thirtieth day of June and the  
4 thirty-first day of December, in each year, pay the same to the  
5 State Treasurer, taking his receipt therefor, which said funds shall  
6 be credited to the general fund of the state. The said board shall  
7 audit all bills made out in due form and verified by the member  
8 incurring the expense, rendering the services, or traveling in the  
9 performance of his official duties, and such bills shall be paid out  
10 of the state treasury. The legislature shall from time to time

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11 make such appropriations as shall be necessary for the payment of  
12 salaries, expenses, etc., as herein enumerated, and for carrying on  
13 the purposes of this act.

Sec. 12. It shall be the duty of said board, not later than the  
2 thirtieth day of June in each year, to make a report in writing  
3 to the governor of this state, containing a detailed statement of  
4 the nature and amounts of the receipts of said board, and the man-  
5 ner of expenditure thereof, including the salaries of the secretary  
6 and the treasurer, and all expenses incurred by the members of

7 said board in the performance of their official duties. The board  
8 shall at any time it deems proper make requisition upon the state  
9 auditor for the salary due any member or officer of said board, or  
10 for any expenses incurred by said board or its members under the  
11 provisions of this act.

12 Any licensed embalmer who is required by law to perform  
13 his duties as described in this act shall be excused from petit jury  
14 service.

15 All acts or parts of acts inconsistent with this act are hereby  
16 repealed.

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ENGROSSED

## House Bill No. 1.

[BY MR. ANDERSON.]

A BILL to amend and re-enact sections five and six of chapter one  
hundred and thirty-seven of the code relating to commissioners  
of courts and commissioners of accounts and the fees to be paid  
for their services.

*Be it enacted by the Legislature of West Virginia:*

That sections five and six of chapter one hundred and thirty-seven  
of the code be amended and re-enacted so as to read as follows:

Section 5. For any service, such fees as the court of which  
2 he is a commissioner, may from time to time prescribe (except  
3 as provided in chapter sixty-six of this code), not exceeding one  
4 dollar and fifty cents where less than one hour is employed, and  
5 if more than an hour be employed, not exceeding the rate of one  
6 dollar and fifty cents for each hour, or in lieu thereof, twenty  
7 cents per hundred words as the commissioner may elect. A com-  
8 missioner returning a report shall annex thereto a certificate under  
9 oath that he was actually and necessarily employed for a number  
10 of hours to be stated therein, in performing the services for which  
11 the fees stated at the foot thereof are charged. Until such certifi-

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12 cate is made no such fees shall be allowed or paid. A commis-  
13 sioner shall not be compelled to make out or return a report until  
14 his fees therefor be paid or security given him to pay so much  
15 as may be adjudged right by the court to which the report is to  
16 be returned, or if it be a circuit court, by the judge thereof in

17 vacation, unless the court or judge see cause to order it to be  
18 made out and returned without such payment or security, and  
19 shall so order.

Sec. 6. For services rendered by any commissioner of ac-  
2 counts the same compensation shall be allowed for similar services  
3 as are herein allowed to commissioner of courts.

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## House Bill No. 116

[BY MR. MCCLINTIC.]

A BILL to amend and re-enact sections one and two of chapter  
seventy-three, of the code of West Virginia, relating to recordation  
of writings.

*Be it enacted by the Legislature of West Virginia:*

That sections one and two of chapter seventy-three, of the code  
of West Virginia be amended and re-enacted so as to read as follows:

Section 1. Any will, deed, contract power of attorney, or  
2 other writing shall be admitted to record in the office of the clerk  
3 of the county court of any county, as to any person whose name is  
4 signed thereto, when it has been duly acknowledged by such per-  
5 son, or his signature thereto proved by two witnesses before such  
6 person, or his signature thereto proved by two witnesses before  
7 such clerk.

Sec. 2. Any affidavit as to the birth, marriage, death and  
2 relationship of the parties to any such writing shall, without fur-  
3 ther acknowledgment or proof thereof, be admitted to record in  
4 the office of the clerk of the county court where such writing may  
5 be recorded and be recorded and indexed in the deed books. In  
6 case of the death of the party making such affidavit, the same,  
7 or a duly authenticated copy thereof, may be received in any suit  
8 or proceeding as *prima facie* evidence of the facts stated therein.

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## House Bill No. 202

[BY MR. HOWARD.]

Introduced January 30, 1919. Referred to the Committee on Immi-  
gration and Agriculture. January 28, reported back iwth the recom-



mentation that it do pass. January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact all of chapter sixty-two-b of Barnes' code of one thousand nine hundred and sixteen, and also as amended and re-enacted by chapter forty-four of the acts of the legislature of one thousand nine hundred and seventeen, providing for the collection and analysis of samples of commercial fertilizers, providing for tags showing analysis thereof, and regulating the sale of such other materials used for manurial purposes and providing penalty for violation thereof.

*Be it enacted by the Legislature of West Virginia:*

That all of chapter sixty-two-b of Barnes' code of one thousand nine hundred and sixteen and also as amended by chapter forty-four of the acts of the legislature of one thousand nine hundred and seventeen, be amended to read as follows:

Section 1. For the purpose of this act, the term "fertilizer" shall be held to mean any article, substance or mixture applied to the soil for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals, when sold as such, without brand, name or trade-mark, and burnt lime and ground limestone and marl when sold with or without brand, name or trade-mark; and the term "person" shall be held to include cor-

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porations, companies, societies and associations, whether acting through an agent or servant.

Sec. 2. Every person who shall offer or expose for sale or sell in this state any fertilizer, shall, before the same is sold, offered or exposed for sale, file with the commissioner of agriculture an affidavit clearly and truly setting forth the name, brand or trade-mark under which the fertilizer is to be sold, the name of the manufacturer, jobber or importer, the place of manufacture and the composition of the fertilizer, including the percentum of every constituent relied upon as contributing to the value of the fertilizer, and the materials from which said constituents are derived, said statements as to materials shall be quantitative; provided, that when the manufacturer, jobber or importer of any fertilizer shall file the affidavit required by this section, no agents or dealers selling the same fertilizer for him under his name and brand shall be required so to do.

The affidavit required by this section shall be made annually,

16 but may be made at any time for the calendar year, and may be  
17 filed in the month of December for the year following.

Sec. 3. Every bag, barrel or other package of fertilizer sold,  
2 offered or exposed for sale in this state, shall have securely and  
3 conspicuously affixed thereto a label certified by the commissioner  
4 of agriculture, carrying the affidavit provided for by section two  
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5 of this chapter, the brand of fertilizer, the net weight of the pack-  
6 age, the name and address of the manufacturer, jobber or importer,  
7 having due regard for soluble, reverted and insoluble phosphoric  
8 acid, complete fertilizer carrying a total soluble plant food of 14  
9 percent or more, shall be conspicuously marked high grade, carry-  
10 ing less than fourteen percent soluble plant food shall be conspicu-  
11 ously marked medium and low grade at the discretion of the com-  
12 missioner of agriculture. The meaning of complete fertilizers in this  
13 act, are fertilizers carrying nitrogen, phosphoric acid and potash.  
14 Super-phosphates carrying nitrogen and phosphoric acid with a  
15 total of twelve percent or more soluble plant food shall be conspic-  
16 uously marked high grade, less than twelve percent total soluble  
17 plant food shall be conspicuously marked low or medium grade at  
18 the discretion of the commissioner of agriculture. Acid phosphates  
19 guaranteeing two percent or less of reverted phosphoric acid shall  
20 be conspicuously marked high quality. With four percent of  
21 more reverted phosphoric acid shall be conspicuously marked low  
22 quality. The label shall be furnished by the commissioner of agri-  
23 culture, who shall receive pay therefor at the rate of forty cents  
24 per ton of fertilizer; *provided* that this act shall not apply to fer-  
25 tilizer materials sold to fertilizer manufacturers to be prepared or  
26 treated by themselves and resold.

Sec. 4. Whenever any fertilizers in car load lots are con-

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2 signed to any shipping point in this state, the consignor shall im-  
3 mediately notify the commissioner of agriculture by mail, giving  
4 date of consignment, name of consignee and destination. The  
5 commissioner of agriculture, in person or by a deputy, shall take  
6 samples of any fertilizer and for this purpose is authorized to  
7 enter during business hours, any store room or other places where  
8 fertilizers are sold, offered or exposed for sale. The said commis-  
9 sioner shall cause the said sample or samples so taken and samples  
10 submitted for dealers or farmers according to the rules and regu-  
11 lations prescribed by the commissioner of agriculture to be ana-

12 lyzed by practical methods upon the official oath of the analyst  
13 free of charge and certify the result to the person furnishing the  
14 same and publish the results. Any sample or samples so analyzed  
15 falling five percent below their guaranteed quantity of soluble  
16 plant food, shall as to such brand or brands be barred from sale  
17 in this state for the year in which such brand or brands are  
18 licensed for sale, upon the written notice by the commissioner of  
19 agriculture to the manufacturer, jobber or importer selling such  
20 brand or brands in this state.

Sec. 5. The commissioner of agriculture shall promptly  
2 deposit with the treasurer of the state all moneys collected under  
3 this act and shall draw upon the same as needed to meet all ex-  
4 penses incurred on account of the requirements of this act, and any  
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5 money remaining after all of said expenses have been paid shall  
6 be expended by the said commissioner by and with consent of the  
7 governor; in the discharge of his duties in behalf of agriculture  
8 in this state, the said commissioner shall seek to make the inspec-  
9 tion of fertilizers hereby intrusted to him as helpful as possible  
10 to the purchasers of fertilizers in this state and is hereby author-  
11 ized to make such rules and regulations as may be necessary to  
12 carry into effect the full intent and meaning of this act; the said  
13 commissioner shall report promptly to the prosecuting attorney  
14 of the county, in which the offense was committed, any violation  
15 of this act and all failures to comply therewith and a copy of any  
16 label, statement or tag required to be filed with the said commis-  
17 sioner or prepared by him and any analysis made or caused to be  
18 made by him when duly certified by the said commissioner shall be  
19 admissible in evidence to the same extent as if it were his deposi-  
20 tion taken in the manner prescribed by law for the taking of depo-  
21 sitions, in any prosecution or suit for any violation of the provi-  
22 sions of this act.

23 Any manufacturer, dealer or agent who shall sell, offer or  
24 expose for sale in this state any fertilizer without first having  
25 complied with the requirements of this act regarding such fer-  
26 tilizer, or who shall use tax tags the second time, or any person  
27 who shall receive or remove any fertilizer without its having been  
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28 registered, branded and tagged as required by this act, shall be  
29 guilty of a misdemeanor and be subject to penalties prescribed  
30 under this act.

Sec. 6. Any person who shall violate any of the provisions of this act or who shall fail to comply therewith, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty dollars and not more than one hundred dollars for the first offense, and not less than fifty dollars and not more than five hundred dollars for each subsequent offense.

*Provided*, however, that all tags issued by the commissioner of agriculture as hereinbefore provided and not used at the time this act became operative, shall be redeemed by the said commissioner and other tags issued in lieu thereof complying with the requirements of this act.

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## House Bill No. 268

[BY MR. VAUGHN.]

Introduced February 8, 1919. Referred to the Committee on the Judiciary. February 12, reported back with the recommendation that it do pass. February 15, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend chapter one hundred fifty of Hogg's code of one thousand nine hundred and thirteen by adding thereto section five thousand three hundred and seventy-two.

*Be it enacted by the Legislature of West Virginia:*

That section five thousand two hundred and seventy-two be added to chapter one hundred and fifty of Hogg's code of the edition of West Virginia so as to read as follows:

It shall be unlawful for any person or persons to smoke tobacco, cigarettes or cigars in any public eating place, dining room, restaurant, cafe, or other like place where food is furnished, and where such places as are referred to in this section are visited or patronized by females. Any person or persons violating the provisions of this section shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than five dollars, and not more than twenty-five dollars at the discretion of the court having jurisdiction therein.

# House Bill No. 226

[BY MR. WYSONG]

Introduced January 31, 1919. Referred to the Committee on the Judiciary. February 3, reported back with the recommendation that it do pass; February 15, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to fix the salary of the judges of the circuit courts and to repeal the several acts, heretofore passed, authorizing special allowances by county courts to be paid unto such judges.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That from and after the first day of July, one thousand nine hundred and nineteen, each of the judges of the circuit courts shall receive an annual salary of six thousand (\$6,000.00) dollars, payable monthly out of the treasury.

Sec. 2. That after the first day of July, one thousand nine hundred and nineteen, no circuit judge shall be allowed or paid a special allowance or compensation out of the county treasury.

All acts coming within the purview of this Act and inconsistent herewith are hereby repealed.

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# House Bill No. 62

[BY MR. O'CONNOR.]

Introduced January 15, 1919. Referred to the Committee on the Judiciary. February 7, reported back with the recommendation that it do pass. February 15, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact section twenty-two of chapter one hundred and thirty-seven of the code of West Virginia as amended and re-enacted by chapter sixty-two of the acts of the legislature of West Virginia for the year one thousand nine hundred and eleven.

*Be it enacted by the Legislature of West Virginia:*

That chapter sixty-two of the acts of the legislature of West Virginia for the year one thousand nine hundred and eleven be amended and re-enacted so as to read as follows:

Section 22. For receiving a person in jail twenty-five cents and the like sum for discharging him therefrom; for keeping and

3 supporting a person confined in jail, for each day, in the discre-  
4 tion of the court, a sum not less than thirty-five cents nor more  
5 than fifty cents.

5-a Upon the affidavit of the jailer the county court shall allow  
6 him out of the county treasury the amount actually paid out for  
7 fuel necessary in heating and lighting the jail.

8 For attendance upon the circuit court, he shall be allowed  
9 not less than three dollars nor more than five dollars per day for  
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10 the actual time his services are required by said court, to be as-  
11 certained and fixed by the county court and paid out of the county  
12 treasury.

13 In cases of felony and in cases of misdemeanor the fees of  
14 the jailer shall be paid out of the county treasury; and in civil  
15 cases by the party at whose instance a person is committed to  
16 jail.

17 And the county court may, when it deems necessary, employ  
18 a court house janitor for which he shall be allowed not less than  
19 twenty dollars nor more than one hundred dollars per month, to  
20 be ascertained and fixed by said court and paid out of the county  
21 treasury; the duties of said janitor to be defined by the county  
22 court according to the needs or requirements of the court house  
23 where such janitor is employed.

24 All acts and parts of acts in conflict herewith are hereby  
25 repealed.

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## House Bill No. 281

[BY MR. MOLLOHAN.]

Introduced February 11, 1919. Referred to the Committee on the  
Judiciary. February 12, reported back with the recommendation  
that it do pass. February 15, coming up in regular order for con-  
sideration, was read a first time and ordered to its second reading..

A BILL amending and re-enacting chapter ninety-two of the acts of  
the regular session of the legislature of one thousand nine hun-  
dred and seventeen and section twenty-four of chapter one hun-  
dred and twelve-a of the code of West Virginia, one thousand  
nine hundred and sixteen, fixing the number of terms and time  
for holding the circuit court in each of the counties composing  
the twenty-first circuit of the state.

*Be it enacted by the Legislature of West Virginia:*

That chapter ninety-two of the acts of the regular session of the legislature; of one thousand nine hundred and seventeen and section twenty-four of chapter one hundred and twelve-a of the code of West Virginia, one thousand nine hundred and sixteen be amended and re-enacted so as to read as follows:

Section 24. That there shall be held in each year at least  
2 three terms of the circuit court in and for the county of Braxton  
3 in said judicial circuit so created, and that there shall be held  
4 in each year at least four terms of the circuit court in and for the  
5 county of Nicholas in said judicial circuit so created, and the  
6 terms of the circuit court of the counties of Braxton and Nicholas

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7 in said judicial circuit shall commence and be held as follows:

8 For the county of Braxton on the third Monday in March,  
9 the second Monday in July and the third Monday in November.

10 For the county of Nicholas on the third Monday in January,  
11 on the second Monday in April, on the third Monday in August,  
12 and the third Monday in October.

13 All acts and parts of acts inconsistent herewith are hereby  
14 repealed.

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## House Bill No. 146

[BY MR. HACKNEY.]

Introduced January 22, 1919. Referred to the Committee on the Judiciary; January 29, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact section six, serial section number four thousand four hundred ten of chapter one hundred three of Hogg's West Virginia code of one thousand nine hundred thirteen, relating to the maximum amount that may be recovered in an action for wrongful death.

*Be it enacted by the Legislature of West Virginia:*

That section six of chapter one hundred three, serial section number four thousand four hundred ten, of the code of West Virginia, one thousand nine hundred thirteen, fixing the maximum amount

that a jury may give in an action for wrongful death at ten thousand dollars, be amended and re-enacted so as to read as follows:

Section 6. Every such action shall be brought by and in the  
 2 name of the personal representative of such deceased person; and  
 3 the amount recovered in every such action shall be distributed to  
 4 the parties, and in the proportion provided by law in relation to  
 5 the distribution of personal estate left by persons dying intestate.  
 6 In every such action the jury may give such damages as they  
 4<sup>2</sup> [H. B. No. 146  
 7 shall deem fair and just, not exceeding twenty-five thousand dol-  
 8 lars, and the amount so recovered shall not be subject to any  
 9 debts or liabilities of the deceased; *providing*, that every such  
 10 action shall be commenced within two years after the death of  
 11 such deceased person.

## House Bill No. 138

(BY MR. NEALE, OF CABELL)

Introduced January 22, 1919. Referred to the Committee on Prohibition and Temperance. January 25, reported back with the recommendation that it do pass. January 28, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact sections three and four of chapter thirty-two-*a* of Barnes' code of West Virginia, one thousand nine hundred and sixteen, and sections fourteen and thirty-one as amended by chapter fifty-eight, acts of the legislature of one thousand nine hundred and seventeen, all relating to prohibition of the manufacture, sale, storage, furnishing and carriage of intoxicating liquors, and the confiscation of property used for the unlawful transportation of such liquors, and to further amend said chapter thirty-two-*a* of Barnes' code of West Virginia, one thousand nine hundred and sixteen, by enacting as additional thereto four sections, to be numbered sections thirty-one-*a*, thirty-one-*b*, thirty-seven and thirty-eight as parts thereof, and said sections to be numbered thirty-one-*a*, thirty-one-*b*, thirty-seven and thirty-eight, inclusive, as parts of said chapter thirty-two-*a*, Barnes' code of West Virginia, one thousand nine hun-



dred and sixteen, relating to the sale and transportation of intoxicating liquors into the state, and to the ownership and operation of "moonshine stills."

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*Be it enacted by the Legislature of West Virginia:*

That sections three and four, of chapter thirty-two-a of Barnes' code of West Virginia, one thousand nine hundred and sixteen, and sections fourteen and thirty-one as amended by chapter fifty-eight, acts of the legislature of one thousand nine hundred and seventeen, relating to prohibition of the manufacture, sale, storage, furnishing and carriage of intoxicating liquors, and the confiscation of property used in the unlawful transportation of such liquors; and that chapter thirty-two-a of Barnes' code of West Virginia, one thousand nine hundred and sixteen, be further amended by enacting as additional thereto four sections, to be numbered sections thirty-one-a, thirty-one-b, thirty-seven and thirty-eight, inclusive, as parts thereof, and said sections thirty-one-a, thirty-one-b, thirty-seven and thirty-eight, inclusive, as parts of said chapter thirty-two-a, Barnes' code, one thousand nine hundred and sixteen, relating to the sale and transportation of intoxicating liquors into the state, and to the ownership and operation of "moonshine stills," be amended, re-enacted and added to so as to read as follows:

Section 3. Except as hereinafter provided, if any person  
2 acting for himself, or by, for or through another, shall manufac-  
3 ture (other than by "moonshine still") or sell, or keep, store,  
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4 offer or expose for sale, or solicit or receive orders for any liquors,  
5 or absinthe or any drink compounded with absinthe, he shall be  
6 deemed guilty of a misdemeanor for the first offense hereunder,  
7 and upon conviction thereof shall be fined not less than one hun-  
8 dred dollars nor more than five hundred dollars, and imprisoned  
9 in the county jail not less than two nor more than six months;  
10 and upon conviction of the same person for the second offense  
11 under this act, he shall be guilty of a felony and be confined in  
12 the penitentiary not less than one nor more than five years; and  
13 it shall be the duty of the prosecuting attorney in all cases to  
14 ascertain whether or not the charge made by the grand jury is  
15 the first or second offense; and if it be a second offense, it shall  
16 be so stated in the indictment returned, and the prosecuting attor-  
17 ney shall introduce the record evidence before the trial court of  
18 said second offense, and shall not be permitted to use his discre-

19 tion in charging said second offense, or in introducing evidence  
 20 and proving the same on the trial; and any person, except a com-  
 21 mon carrier, who shall act as the agent or employee of such man-  
 22 ufacturer (other than a "moonshine") or such seller, or person  
 23 so keeping, storing, offering or exposing for sale said liquors,  
 23-a or act as the agent or employe of the purchaser of said liquors,

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24 shall be deemed guilty of such manufacturing or selling, keeping,  
 25 storing, offering or exposing for sale, as the case may be; and in  
 26 case of a sale in which a shipment or delivery of such liquors is  
 27 made by a common, or other carrier, the sale thereof shall be  
 28 deemed to be made in the county wherein the delivery thereof  
 29 is made by such carrier to the consignee, his agent or employe.

30 An indictment for any first offense under this section shall  
 31 be sufficient if in the form or effect following:

32 State of West Virginia,

33 County of ....., to-wit:

34 In the Circuit Court of ..... County:

35 The grand jurors in and for the body of the said county of  
 36 ....., upon their oaths, do present that A. B., within  
 37 one year next prior to the finding of this indictment, in the said  
 38 county of ....., did unlawfully manufacture (other than  
 39 by "moonshine stills), sell, offer, keep, store and expose for sale  
 40 and solicit and receive orders for liquors and absinthe and drink  
 41 compounded with absinthe, against the peace and dignity of the  
 42 state.

Sec. 4. The provisions of this act shall not be construed  
 2 to prevent any one from manufacturing (other than by "moon-  
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3 shine still"), for his own domestic consumption wine or cider;  
 4 *provided*, however, that it shall be unlawful for any person to  
 5 make, or manufacture, or possess at any one time during any  
 6 period of twelve consecutive months, for his own domestic con-  
 7 sumption, more than ten gallons of wine. If any person shall  
 8 make, or manufacture or possess at any one time during any  
 9 period of twelve consecutive months, for his own domestic con-  
 10 sumption, more than ten gallons of mine, he shall be deemed  
 11 guilty of a misdemeanor for the first offense hereunder, and  
 12 upon conviction thereof shall be fined not less than one hundred  
 13 dollars nor more than five hundred dollars, and imprisoned in  
 14 the county jail not less than two nor more than six months; and

15 upon conviction of the same person for the second offense under  
16 this act, he shall be guilty of a felony, and shall be confined  
17 in the penitentiary not less than one nor more than five years;  
18 and the prosecuting attorney shall be governed in all cases of  
19 second offense arising hereunder by the provisions of section  
20 three of chapter thirty-two-a of Barnes' code of West Virginia.  
21 Nor shall the provisions of this act be construed to prevent the  
22 manufacture from fruit grown exclusively within this state of  
23 vinegar and non-intoxicating cider for use or sale; or to pre-

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24 vent the manufacture and sale at wholesale to druggists only of  
25 pure grain alcohol for medicinal, pharmaceutical, scientific and  
26 mechanical purposes, or wine for sacramental purposes by relig-  
27 ious bodies; or to prevent the sale and keeping and storing  
28 for sale by druggists of pure grain alcohol for mechanical,  
29 pharmaceutical, medicinal and scientific purposes, or of wine for  
30 sacramental purposes, by religious bodies, or any United States  
31 pharmacopoeia or national formulary preparation in conformity  
32 with the West Virginia pharmacy law, or any preparation which  
33 is exempted by the provisions of the national pure food law, and  
34 the sale of which does not require the payment of a United States  
35 liquor dealer's tax. But no druggist shall sell any such grain  
36 alcohol except for medicinal, scientific, pharmaceutical and me-  
37 chanical purposes, or wine for sacramental purposes, except as  
38 hereinafter provided, and the same shall not be sold by such  
39 druggist for medicinal purposes, except upon a written prescrip-  
40 tion of a physician of good standing in his profession and not of  
41 intemperate habits, or addicted to the use of any narcotic drug,  
42 prescribing the amount of alcohol the disease or malady for which  
43 it is prescribed, and how it is to be used, the name of the person  
44 for whom prescribed, the number of previous prescriptions given

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45 by such physician to such person within the year next preceding  
46 the date of such prescription, and stating that the same is abso-  
47 lutely necessary for medicine, and not to be used as a beverage,  
48 and that such physician, at the time such prescription was given,  
49 made a personal examination of such person, and that such  
50 person is known to such physician to be of temperate habits and  
51 not addicted to the use of any narcotic drug, and only one  
52 sale shall be made upon such prescription, and such prescrip-  
53 tion shall be at all times kept on file by such druggist and open

54 to the inspection of all state, county and municipal officers. It  
55 shall be the duty of such druggist to register in a book kept  
56 for that purpose all prescriptions from physicians mentioned in  
57 this section, stating the name of the party for whom prescribed,  
58 the date of the prescription, the name of the physician by whom  
59 the prescription is issued, the quantity of such alcohol and the  
60 use for which prescribed, and such record shall be at all times  
61 open to the same inspection as such prescriptions.

62 It shall be lawful for a druggist to sell grain alcohol for  
63 pharmaceutical, scientific and mechanical purposes, or wine for  
64 sacramental purposes by religious bodies, only to any person, not  
65 a minor, and who is not of intemperate habits, or addicted to . .

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66 the use of narcotic drugs, who shall, at the time and place of  
67 such sale, make an affidavit in writing, signed by himself before  
68 such druggist, or a registered pharmacist at the time and place  
69 in the employ of such druggist, stating the quantity and the  
70-76 time and place and fully for what purpose and by whom such  
77 alcohol or wine is to be used; that affiant is not of intemperate  
78 habits or addicted to the use of any narcotic drug; and that such  
79 alcohol or wine is not to be used as a beverage, or for any pur-  
80 pose other than that stated in such affidavit. Such affidavit  
81 shall be filed and preserved by such druggist and be subject to  
82 inspection at all times by any state, county or municipal offi-  
83 cer, and a record thereof made by such druggist in the record  
84 book mentioned in this section, showing the date of the affidavit,  
85 by whom made, the quantity of such alcohol, or wine, and when,  
86 where, for what purpose and by whom to be used. Only one  
87 sale shall be made upon such affidavit, and only in the county  
88 where the same is made, and no greater quantity than is therein  
89 specified. For the purpose of this act, any druggist or registered  
90 pharmacist making such sale shall have authority to administer  
91 such oath.

92 If any druggist, owner of a drug store, registered pharma-  
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93 cist, clerk or employe shall upon such prescription or affidavit,  
94 or otherwise, knowingly sell or give any such alcohol or wine  
95 to any person who is of intemperate habits or addicted to the  
96 use of any narcotic drug, or knowingly sell or give the same  
97 to any one to be used for any purpose other than that named  
98 in said affidavit or prescription, or who shall sell or give away

99 any liquors without such affidavit or prescription, he shall be  
 100 deemed guilty of a misdemeanor and punished by fine of not  
 101 less than one hundred nor more than five hundred dollars and  
 102 confined in the county jail not less than thirty days nor more  
 103 than six months. In any prosecution against a druggist, owner  
 104 of a drug store, registered pharmacist, clerk or employe, for sell-  
 105 ing or giving liquor contrary to law, if a sale or gift be proven,  
 106 it shall be presumed that the same was unlawful in the absence  
 107 of satisfactory proof to the contrary and the presentation of such  
 108 prescription or affidavit by the defendant at the time of such pre-  
 109 scription or affidavit by the defendant at the time of the trial  
 110 for such sale or gift, shall be sufficient to rebut the presumption  
 111 arising from the proof of such sale or gift. *Provided*, the jury  
 112 shall believe, from all the evidence in the case, that such sale  
 113 or gift was made in good faith under the belief that such pre-

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114 scription or affidavit and statements therein were true; and,  
 115 *provided, further*, that such druggist, owner of a drug store,  
 116 registered pharmacist, clerk or employe shall have complied with  
 117 all other provisions of this act relating to the sale or gift.

118 An indictment against any druggist, registered pharmacist,  
 119 clerk or employe, for any offense committed under the provisions  
 120 of this section, shall be sufficient if in the form and effect fol-  
 121 lowing:

122 State of West Virginia,

123 County of ....., to-wit:

124 In the Circuit Court of said County:

125 The grand jurors in and for the body of the said county  
 126 of ....., upon their oaths do present that A. B.,  
 127 within one year next prior to the finding of this indictment, in  
 128 the said county of ....., did unlawfully sell, give,  
 129 offer, expose, keep and store for sale and gift, liquors, against  
 130 the peace and dignity of the state.

Sec. 14. All houses, boat-houses, buildings, club rooms,  
 2 and places of every description, including drug stores, where in-  
 3 toxicating liquors are manufactured, stored, sold or vended, given  
 4 away, or furnished in any way contrary to law (including houses

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5 in which clubs, orders, or associations, shall barter, give away,  
 6 distribute, or dispense, intoxicating liquors to their members  
 7 by any means or device whatever, as provided in section six of

8 this act), shall be held, taken and deemed, common and pub-  
9 lic nuisances. All boats, cars, automobiles, wagons, air-craft,  
10 beast of burden, or vehicles of any kind, where intoxicating  
11 liquors are had, kept or possessed for the purpose of transport-  
12 ing, or carrying, in any way, contrary to law, shall be held,  
13 taken and deemed common and public nuisances. Boats, cars,  
14 (including railroad, and traction passenger cars operating in  
15 this state), automobiles, wagons, air-crafts, beasts of burden,  
16 or vehicles of any kind, shall be held, taken and deemed as  
17 as places within the meaning of this act, and may be proceeded  
18 against by suit in equity under the provisions of section seven-  
19 teen. And any person who shall maintain, or shall aid or  
20 abet, or knowingly be associated with others in maintaining such  
21 common and public nuisance, shall be guilty of a misdemeanor,  
22 and upon conviction thereof, shall be punished by a fine of not  
23 less than one hundred nor more than five hundred dollars, and by  
24 imprisonment in the county jail not less than sixty days nor  
25 more than six months for each offense, and judgment shall be

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26 given that such house, building, or any room therein, or other  
27 place, be abated or closed up as a place for the sale or keeping  
28 for sale of such liquors contrary to law, as the court may de-  
29 termine.

30 All automobiles, cars, boats, (other than railway cars, street  
31 cars and steamboats), wagons, air-craft, beasts of burden, or  
32 vehicles of any kind, that are used to bring or carry excessive  
33 quantities of intoxicating liquors into the state, or from one  
34 place to another within the state, or that are known or found  
35 to contain excessive quantities of intoxicating liquors while in,  
36 on, or operating upon any street, alley, road, highway, or water  
37 course, or stored in any garage or other storage place, or in  
38 any other place, whether such liquors are in the possession of  
39 passengers or occupants of any such vehicle or otherwise, shall  
40 be subject to seizure, forfeiture, and confiscation by the state,  
41 regardless of the ownership of any such property. Any state,  
42 county, district, or municipal officer whose duty it is to enforce  
43 the provisions of chapter thirty-two-a of Barnes' code of West  
44 Virginia, shall seize and take into his custody any automobile,  
45 car, boat, (other than railway cars, street cars and steamboats),  
46 wagon, air-craft, beast of burden, or other vehicle, that is being  
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47 used as a container or conveyance of excessive quantities of liquor,  
48 whether said liquors are upon the persons and in the actual cus-  
49 tody of the passengers or occupants of any such vehicle of con-  
50 veyance, or otherwise. Upon the seizure of any property under  
51 the provisions of this section by any officer, he shall preserve the  
52 same and keep it safely in custody, and shall immediately report  
53 the seizure to the prosecuting attorney of the county, and to the  
54 state tax commissioner, whereupon the state tax commissioner  
55 and the prosecuting attorney, or either of them, may institute  
56 a suit in equity in the circuit court in the manner provided by  
57 section seventeen of chapter thirty-two-a of the code, making  
58 all proper persons parties thereto. If the circuit court upon the  
59 hearing, shall find that any vehicle of conveyance mentioned in  
60 this section. (other than railway cars, street cars and steamboats),  
61 is being used, or has been used as a container or storage place for  
62 excessive quantities of intoxicating liquors, or is or has been used  
63 to bring or carry excessive quantities of intoxicating liquors  
64 into the state, or from one place to another within the state, in  
65 violation of the provisions hereof, said court shall adjudge such  
66 property to be a common and public nuisance, and shall enter  
67 an order directing that the same be sold by the sheriff of the

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68 county, at public auction, to the highest bidder, for cash. The  
69 proceeds arising from the sale of any such property, after de-  
70 ducting any proper costs, allowances or commissions, shall be  
71 paid over to the auditor of the state by the sheriff for the use  
72 and benefit of the general school fund. When the value of the  
73 property confiscated hereunder is one hundred dollars or more,  
74 either the state or the defendant shall have the right of appeal  
75 from the judgment of the circuit court. At least five days notice  
76 of any such sale shall be posted at the front door of the court  
77 house, and not less than two other places in the magisterial  
78 district in which such property was seized, and if seized in a city  
79 or town, not less than one additional notice shall be posted in  
80 a public place at the seat of government of the municipality.

81 If any person shall hire, or secure the use of, or obtain  
82 passage upon any automobile, car, boat, (other than railway  
83 cars, street cars and steamboats), wagon, air-craft, beast of bur-  
84 den, or other vehicle of any kind, from any owner thereof, or the  
85 agent of any owner, for the purpose of bringing or carrying  
86 into the state, or from one place to another within the state, ex-

87 cessive quantities of intoxicating liquors, whether carried upon  
88 his person or otherwise while in any vehicle of conveyance men-  
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89 tioned in this section, without first informing any such owner,  
90 or his agent, of his intention and purpose to carry excessive  
91 quantities of intoxicating liquors, and the owner of any such ve-  
92 hicle of conveyance as is mentioned herein, suffers or sustains  
93 any loss by reason of its confiscation by the state under the pro-  
94 visions hereof, such person so securing the use of any vehicle  
95 of conveyance mentioned herein, or obtaining passage thereon,  
96 shall be guilty of a misdemeanor, and upon conviction shall be  
97 fined not less than two hundred dollars nor more than five hun-  
98 dred dollars, and confined in the county jail not less than  
99 three months nor more than six months; and the owner of any  
100 such property may recover all damages sustained by him from  
101 any person so hiring or obtaining passage upon any such vehicle  
102 of conveyance for use in the unlawful transportation of intoxicat-  
103 ing liquors, without first informing the owner or his agent of  
104 such purpose, in an action at law in any of the civil courts hav-  
105 ing jurisdiction thereof.

Sec. 31. It shall be unlawful for any person to bring or  
2 carry into the state, during any period of thirty consecutive days,  
3 or carry from one place to another within the state, or to have  
4 or carry in or on any passenger train or other vehicle of convey-

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5 ance, within said period, in any manner whatsoever, whether in  
6 his personal baggage or otherwise, more than one quart of in-  
7 toxicating liquors, whether such liquors are intended for personal  
8 use or for any other purpose, and whether any such person shall  
9 be an intra-state or interstate passenger or not. If any person  
10 shall bring, or carry into the state, during any period of thirty  
11 consecutive days, or from one place to another within the state,  
12 or shall have or carry in or on any passenger train or other ve-  
13 hicle of conveyance, within said period, in any manner whatso-  
14 ever, whether in his personal baggage or otherwise, more than  
15 one quart of intoxicating liquors, whether the same is intended  
16 for personal use or for any other purpose, and whether any such  
17 person shall be an intra-state or interstate passenger or not, he  
18 shall be deemed guilty of a misdemeanor, and upon conviction  
19 thereof, shall be fined not less than one hundred dollars nor  
20 more than five hundred dollars, and imprisoned in the county



21 jail not less than two nor more than six months. And upon con-  
22 viction of the same person for the second offense under this act,  
23 he shall be guilty of a felony, and be confined in the penitentiary  
24 not less than one nor more than five years; and it shall be the duty  
25 of the prosecuting attorney in all cases, to ascertain whether or  
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26 not the charge made by the grand jury is the first or second of-  
27 fense; and if it be a second offense, it shall be so stated in the  
28 indictment returned, and the prosecuting attorney shall introduce  
29 the record of the first conviction as evidence before the trial court  
30 of said second offense, and shall not be permitted to use his  
31 discretion in charging said second offense, or in introducing evi-  
32 dence and proving the same on the trial.

33 It shall be unlawful for any carrier operating in this state  
34 to knowingly carry for a passenger, or any of its employees, or  
35 to knowingly permit any person or employee to carry into this  
36 state, or from one place to another within the state, or to know-  
37 ingly permit any passenger or employee to have or carry in or on  
38 any of its trains, more than one quart of intoxicating liquors as  
39 baggage. If any carrier shall knowingly carry for a passenger,  
40 or knowingly permit a passenger to carry into the state, or from  
41 one place to another within the state, or to knowingly permit any  
42 passenger or any person in its employ to have or carry in or  
43 on any of its trains, more than one quart of intoxicating liquors  
44 as personal baggage, the carrier shall be deemed guilty of a mis-  
45 demeanor, and upon conviction thereof shall be fined not less  
46 than two hundred dollars nor more than one thousand dollars.

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47 And a court of equity, upon showing that a carrier has knowingly  
48 carried for a passenger or an employee, or knowingly permitted  
49 a passenger to carry into the state, or from one place to another  
50 within the state, more than one quart of intoxicating liquors as  
51 personal baggage, or through the want of due caution and care,  
52 has carried for a passenger or employee, or permitted a passenger  
53 or employee to carry into the state, or from one place to another  
54 within the state, more than one quart of intoxicating liquors as  
55 personal baggage, shall have jurisdiction to entertain such suit  
56 and to enter such decree and take such proceedings as are provided  
57 for in section seventeen.

Sec. 31-a. It shall be unlawful for any person to order, pur-  
2 chase, sell, or cause intoxicating liquors, except as provided in sec-

tion thirty-one, to be transported into the state, or from one place to another within the state, in any manner, except pure grain alcohol for medicinal, pharmaceutical, scientific and mechanical purposes, and wine for sacramental purposes to be used by religious bodies, as now provided by law. If any such person shall order, purchase, sell or cause intoxicating liquors, in any quantity, except as provided in section thirty-one, to be transported into the state, or from one place to another within the H. B. No. 138]

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sate, in any manner, except for the purposes herein specified, he shall be deemed guilty of a misdemeanor for the first offense; and upon conviction of the same person for the second offense hereunder, he shall be guilty of a felony, and the punishment of each offense hereunder shall be the same as that prescribed for offenses arising under section thirty-one of this act.

Sec. 31-b. It shall be unlawful for any non-resident vendor, dealer, or other person, to sell or furnish intoxicating liquors, with the exception of persons coming within the purview of section thirty-one, to any person who intends to, and does, transport or carry such liquors into this state contrary to the laws thereof, when such non-resident vendor, dealer or other person knows, or has cause to believe, that such liquors are intended to be so unlawfully transported and carried into this state. Any non-resident vendor or other person so purchasing or receiving and unlawfully carrying or transporting such liquors into this state, and such non-resident vendor, dealer or other person, shall be held equally guilty with the person carrying such liquors, who shall be deemed the principal in the offense, and the principal and abettor may be charged in the complaint or indictment, either jointly or separately. The first offense hereunder shall be a mis-

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demeanor, and the second offense shall be a felony, and each offense shall be punished as provided in section thirty-one of this act.

Sec. 37. It shall be unlawful for any person to own, operate, maintain or have in his possession, or any interest therein, any apparatus for the manufacture of intoxicating liquors, commonly known as a "moonshine still," or any device of like kind or character. For the purposes of this act, any mechanism, apparatus or device that is kept or maintained in any desert, secluded, hidden, secret or solitary place, away from the observa-

tion of the general public, for the purpose of distilling, making or manufacturing intoxicating liquors, or which by any process of evaporation, separates alcoholic liquor from grain, molasses, fruit or any other fermented substance, or that is capable of any such use, shall be taken and deemed to be a "moonshine still"; and the owner or operator of any such "moonshine still" shall be deemed a "moonshiner." Any person owning, operating, or having any interest in any moonshine still, shall be guilty of a felony, and upon conviction thereof shall be fined not less than five hundred dollars, and be confined in the penitentiary not less than two nor more than five years. Any person who aids or abets in H. B. No. 138]

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the operation or maintenance of any moonshine still shall be guilty of a felony, and upon conviction thereof shall be fined not less than two hundred dollars nor more than five hundred dollars, and confined in the penitentiary not less than one nor more than three years.

- Any person who has in his possession any quantity of moonshine liquor shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than three hundred dollars, and confined in the county jail not less than thirty nor more than ninety days; *provided*, that if any such person shall fully and freely disclose the name or names of any person or persons from whom he received said moonshine liquor, and give any other information that he may have relative to the manufacture and distribution of the same, and shall truthfully testify as to any such matters of information, he shall be immune from further prosecution or punishment. Sections nine, ten, eleven, twelve and thirteen of chapter thirty-one-a of Barnes code, one thousand nine hundred and eighteen, relating to searches and seizures and procedure, shall apply to and govern the offenses arising under this section, so far as they are applicable; *provided*, that any person held by a justice under

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this section to answer for a felony, shall give a bond in the penalty of not less than one thousand dollars to appear at the next term of the circuit, criminal or intermediate court of the county having jurisdiction, to answer an indictment if one be preferred against him; and *provided*, further, that it shall be the duty of the officers to seize and forthwith destroy all moonshine stills, and liquors and paraphernalia found in connection therewith.

ec. 38. On and after anuary first, one thousand nine hundred and twenty, it shall be unlawful for any person to bring into the State of West Virginia, liquors in any quantity, whatsoever, for any purpose. Any person violating such provision shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and shall be confined in the county jail not less than sixty nor more than six months. Any person convicted under this provision, and who again violates the law in bringing into the state liquors in any quantity, shall be deemed guilty of a felony and upon conviction thereof shall be sentenced to not less than two years nor more than five years in the penitentiary.

## House Bill No. 250

[BY MR. HILLEARY.]

Introduced February 5, 1919. Referred to committee dispensed with. Read a first time and ordered to its second reading.

A BILL to amend chapter three of the acts of the extra session of the legislature of one thousand nine hundred and eight, establishing the independent school district of Buckhannon, by adding section twelve-a thereto, and amending and re-enacting sections six, thirteen and fourteen.

*Be it enacted by the Legislature of West Virginia:*

That chapter three of the acts of the extra session of the legislature of one thousand nine hundred and eight be amended by adding section twelve-a thereto, and amending and re-enacting sections six, thirteen and fourteen to read as follows:

Section 6. The said board shall, at their first meeting in 2 July of each year, appoint a secretary who shall perform such 3 duties for said board as are required of secretaries of other boards 4 of education, who shall hold his office at the will of said board 5 and whose compensation shall be fixed by the board and shall not 6 be less than fifty nor more than one hundred dollars per year. 7 and shall have in addition thereto the usual fee for making the 8 annual report required by law.

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Sec. 12-a. The board of education shall appoint two competent persons to act with the superintendent as a board of ex-

3 aministrs. It shall be the duty of said board of examiners to  
4 examine all applicants for positions as teachers in the schools of  
5 the district, and each person so examined shall pay a fee of one  
6 dollar, but no applicant shall be entitled to examination who  
7 shall not furnish evidence satisfactory to the board of good moral  
8 character.

9 Two classes of certificates shall be granted, namely, high  
10 school certificates and elementary school certificates; and the  
11 board of education shall have power to make special regulations  
12 as to the branches to be given in examination in each class.

13 First grade certificates shall be issued to all applicants who  
14 attain a general average of ninety percent, and not lower than  
15 seventy-five percent in any one branch. Certificate of both classes  
16 shall be valid for a period of one year, and shall be renewable  
17 at the discretion of the board of examiners.

18 The board of examiners may, without examination, issue a  
19 high school certificate based on a diploma from a standard col-  
20 lege; and may in like manner issue an elementary certificate based  
21 on a diploma from a standard normal school or other school of  
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22 equal rank.

Sec. 13. The board of education shall appoint all teachers  
2 for public schools of any grade within the said district and fix  
3 their salaries at a meeting held on the first Monday in July,  
4 or as soon thereafter as possible. But no person shall be em-  
5 ployed to teach a school of the grade for which the appointment  
6 is made, without having a satisfactory certificate obtained and  
7 issued as required by law in the examination of teachers for the  
8 public schools of the state, or in compliance with section twelve-a  
9 of this act.

Sec. 14. The superintendent and teachers shall be subject  
2 in all respects to the rules and regulations adopted by the board  
3 of education, and may be removed by the board of education for  
4 incompetency or grossly immoral conduct, in the manner and  
5 form prescribed for the removal of teachers in section thirteen of  
6 chapter forty-five of the code as amended. The board of educa-  
7 tion shall have power to establish a city institute for city teach-  
8 ers, or course of educational lectures, to be held at such time and  
9 place as they may designate. Attendance upon these institutes  
10 shall be obligatory upon all teachers employed in the district,

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11 and is required in lieu of attendance upon the county teachers'  
12 institute.

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ENGROSSED

## House Bill No. 65

[BY MR. WEISS.]

A BILL providing for the protection and comfort of passengers and employees on street and interurban railway cars by requiring them to be properly heated, by requiring sanding equipment and seats for motormen and conductors, and requiring properly constructed aisles for the use of passengers and employees.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That it shall be unlawful for any street car company or interurban railway company operating a line of railway in this state, or for its president, general manager, general superintendent or other officer, agent or employee in charge of the operation thereof, to permit or cause to be operated within this state any coach or car for the carriage of passengers, which is not provided with a properly constructed center aisle running the length thereof so as to permit quick and easy passage of the passengers thereon, and so constructed as to facilitate the collection of fares and the performance of other duties by the employees of such company.

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Sec. 2. That it shall be unlawful for any street car company or interurban railway company operating a line of railway in this state, or for its president, general manager, general superintendent or other officer, agent or employee in charge of the operation thereof, to permit or cause to be operated within this state any car for the carriage of passengers, or any work car, freight car, coal car or other car which is either wholly or partially enclosed for the protection of passengers or employees from the elements, unless the same is kept heated when in service, where it is practicable to do so at a minimum temperature of fifty degrees, beginning on the fifteenth day of October and ending on the fifteenth day of April following. This section shall not be construed as applying to cars not carrying passengers or employees.

Sec. 3. That it shall be unlawful for any street car company

2 or any interurban railway company operating a line of railway in  
3 this state, or for its president, general manager, general superin-  
4 tendent or other officer, agent or employee in charge of the opera-  
5 tion thereof, to permit or cause to be operated in this state any  
6 coach or car for the carriage of passengers, any work car, line  
7 car, freight car, coal car, shop car or any other car equipped with  
8 a motor or other means of self-propulsion, which is not suitably  
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9 and properly provided and equipped at all times with a supply of  
10 sand and an apparatus for applying the same to the rails when  
11 needed, and it shall be unlawful for any employee to operate any  
12 car not so equipped.

Sec. 4. That it shall be unlawful to operate in this state  
2 any electric, street or interurban railway car unless the same is  
3 provided and equipped at all times, while in actual operation, with  
4 suitable seats for the motormen and conductors engaged in the  
5 operation of the same.

Sec. 5. That it shall be unlawful for any street car or inter-  
2 urban railway company operating a line of railway in this state to  
3 permit the carrying of freight, express packages or baggage in the  
4 front vestibule of any car used for the carrying of passengers;  
5 *provided, however,* that the provisions of this section shall not  
6 apply to the carrying of newspapers on any street car or car  
7 operated by any interurban railway company engaged in the trans-  
8 portation of freight or passengers.

Sec. 6. Any person violating any of the provisions of this  
2 act shall be punishable by a fine of not less than twenty-five dol-  
3 lars nor more than one hundred dollars, or imprisonment in jail

4 [Eng. H. B. No. 65  
4 for not more than thirty days, and each day's violation shall con-  
5 stitute a separate and distinct offense.

Sec. 7. This act shall become effective on the first day of  
2 June, one thousand nine hundred and nineteen; *provided, however,*  
3 that on and after ninety days from its passage it shall be unlawful  
4 to put into the service of any street or interurban railway within  
5 this state any car or cars, other than those which such railway  
6 companies may have in service at the time this act becomes effective,  
7 unless such cars be constructed and equipped as provided in this  
8 act. It is further provided that such street and interurban railway  
9 companies shall have until the first day of September, one thou-  
10 sand nine hundred and nineteen, to equip and reconstruct not less

11 than thirty-three and one-third per cent. of their cars, to meet the  
12 requirements of this act, and that they shall have until the first  
13 day of March, one thousand nine hundred and twenty, to properly  
14 reconstruct and equip all their cars to meet the requirements of  
15 this act.

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ENGROSSED.

## House Bill No. 34.

[BY MR. MCPHERSON.]

A BILL to amend and re-enact chapter thirty-one of the acts of the legislature of West Virginia of the regular session of one thousand nine hundred and seventeen, said act being an amendment and re-enactment of section three of chapter sixty of the code of West Virginia, relating to animals running at large, and prescribing a penalty therefor.

*Be it enacted by the Legislature of the State of West Virginia:*

That chapter thirty-one of the acts of the legislature of the regular session of the year one thousand nine hundred and seventeen, said act being an amendment to section three of chapter sixty of the code of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 3. If any horses, mules, ass, jennet, cattle, sheep,  
2 hogs, goats, geese, turkeys and chickens or other animal shall enter  
3 into any grounds enclosed by a lawful fence, the owner or mana-  
4 ger of such animal shall be liable to the owner of such grounds for  
5 any damage he may sustain thereby; and for every successive  
2 [Eng. H. B. No. 34  
6 trespass by such animal or animals, the owner thereof shall be  
7 liable in damages in double the amount thereof. It shall be un-  
8 lawful for any such animal to run at large on any public road or  
9 highway or railroad right of way in this state and  
9-a should such stock while running at large destroy or  
10 injure the property of another, the owner shall be guilty of a mis-  
11 demeanor and fined not less than five dollars and not more than ten  
12 dollars, and shall pay to the party whose property shall have been  
13 injured or destroyed, the amount of damages sustained by him by  
14 reason of such destruction or injury. And the party so injured,  
15 may, if he find such stock on his premises, retain them, or a suf-  
16 ficient number thereof, until said damages and costs of keeping



17 be paid. *Provided, however,* that no land owner shall be hereafter  
18 required to fence against any stock but his own, and may, if he  
19 so desire, by posting a notice on his premises let his lands lie open  
20 and shall be entitled to such damages by trespass of the stock of  
21 other persons as hereinbefore set forth.

22 All acts or parts of acts in conflict herewith or inconsistent  
23 herewith are hereby repealed.

24 *Provided, however,* that the above bill shall not apply in any  
25 district or county of West Virginia, until it is ratified by a major-  
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26 ity of the voters of said district or county at some general or  
27 special election, and the county court in calling the election may  
28 designate in the order calling the election to which of the animals  
29 hereinbefore named this act shall apply so as to prevent the same  
30 or any of them from running at large.

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## House Bill No. 33

[BY MR. MCCLINTIC.]

Introduced January 13, 1919. Referred to the Committee on the  
Judiciary; January 29, reported back with the recommendation that  
it do pass; January 31, coming up in regular order for considera-  
tion, was read a first time and ordered to its second reading.

A BILL to amend chapter one hundred and thirty of the code of  
West Virginia relating to evidence and witnesses, by adding  
thereto an additional section to be numbered forty-eight, so as  
to provide that when the land described in a patent, deed or  
other document is subject to an exception or reservation of any  
part or parts thereof, it shall be presumed, when the same is  
offered in evidence in any action, suit or proceeding at law or  
in equity involving the trial or determination of title to real  
estate or any interest therein, that the land or interest therein in  
controversy is not included in any such excepted or reserved  
part or parts.

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred and thirty of the code of West Virginia  
be and the same is hereby amended by adding thereto an additional  
section to be numbered and to read as follows:

Section 48. Whenever in any action, suit or proceeding at  
 2 law or in equity, involving the trial or determination of title to  
 3 real estate or any interest therein, any party shall introduce in  
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 4 evidence a patent, deed or other document on which he relies for  
 5 proof of title, and the land described in such patent, deed or other  
 6 document embraces in whole or in part the land or interest therein  
 7 which is in controversy, but there is excepted or reserved from  
 8 the boundary of land therein described any part or parts thereof,  
 9 either generally or by specific enumeration, it shall be presumed,  
 10 in the absence of evidence to the contrary, in favor of such patent,  
 11 deed or other document, that the land or interest therein in con-  
 12 troversy is not included in any such excepted or reserved part or  
 13 parts,

## House Bill No. 180

[By MR. MOORE.]

Introduced January 27, 1919. Referred to the Committee on the  
 Judiciary; January 29, reported back with the recommendation that  
 it do pass; January 31, coming up in regular order for consideration,  
 was read a first time and ordered to its third reading.

A BILL to amend and re-enact section eleven of chapter one hun-  
 dred and fourteen of the code of West Virginia.

*Be it enacted by the Legislature of West Virginia:*

That section eleven of chapter one hundred and fourteen of the  
 code of West Virginia be amended and re-enacted so as to read as fol-  
 lows:

Section 11. When the place of holding any court, or the day  
 2 for commencing any term, is changed, or when a court fails to  
 3 sit on any day appointed for it, or to which it may have ad-  
 4 journed, or when, for any reason, no court shall be held on any  
 5 day within a term thereof, there shall be no discontinuance, but  
 6 every notice, recognition or process, taken or returnable to  
 7 any such day, or to any day between that day and the next that  
 8 the court may sit, or to the day and place as it was before such  
 9 change, and all matters ready for the court to act upon if it had  
 10 been held on any such day, shall be in the same condition and  
 11 have the same effect as if given, taken or returnable, or continued,

12 to the substituted term or place, or to the next day of the same  
13 term that the court may sit, or to the next court in course as the  
14 case may be.

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## House Bill No. 215

[Originating in the Committee on the Judiciary.]

Introduced January 30, 1919, with report from the Committee on the Judiciary and recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to amend and re-enact sections twenty-two and twenty-three of chapter one hundred and sixteen of the code of West Virginia, relating to the compensation of grand and petit jurors.

*Be it enacted by the Legislature of West Virginia:*

That sections twenty-two and twenty-three, of chapter one hundred and sixteen of the code of West Virginia, relating to the compensation of grand and petit jurors, be amended and re-enacted so as to read as follows:

Section 22. Every person who shall serve upon a grand jury  
2 shall be entitled to receive not less than two dollars and not more  
3 five dollars for each day, such amount to be fixed by the court,  
4 and the same mileage allowed to witnesses, to be paid out of the  
5 county treasury.

Sec. 23. Every person summoned by virtue of a *venire*  
2 *facias* or otherwise and actually attending upon court or at the  
3 court house, at the time summoned, whether he be called to serve  
4 on a petit jury or not, shall, for each day he so attends, receive  
5 not less than two dollars and not more than five dollars, such  
6 amount to be fixed by the court, and the same mileage allowed to  
7 witnesses, to be paid out of the county treasury. *Provided, that*

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8 for any day he shall be sworn to serve on a case of felony he shall  
9 be paid four dollars out of the state treasury. For each day he  
10 shall not actually attend the court or at the court house he shall  
11 receive nothing; and mileage shall be allowed but once during the  
12 term. There shall be taxed in the costs against the party against  
13 whom a judgment on the verdict of a jury may be rendered in a

14 case of misdemeanor, and against the party against whom judg-  
15 ment on the verdict of a jury may be rendered in a civil action, and  
16 against the party on whose motion the verdict of a jury may be  
17 set aside and a new trial granted, eight dollars for jury costs,  
18 which shall be collected and paid into the county treasury.

19 The clerk of the circuit court of each county shall annually  
20 certify to the county court a list of all moneys collected and paid  
21 into the treasury of the county, and in addition thereto a correct  
22 list of all the cases in which jury fees have been taxed and are  
23 due and payable into the county treasury, and the clerk and  
24 sheriff shall be liable to account for all such moneys collected  
25 by them.

26 All acts and parts of act in conflict herewith are hereby  
27 repealed:

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## House Bill No. 209

[BY MR. WILLIAMS, OF PLEASANTS.]

Introduced January 29, 1919. Referred to the Committee on Education; January 30, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL authorizing the board of education of Washington district, Pleasants county, West Virginia, to acquire land by condemnation or otherwise, not to exceed ten acres for district high school purposes, and authorizing a special levy to pay for same.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of Washington district, 2 Pleasants county, West Virginia, is authorized to acquire land by 3 condemnation or otherwise, not to exceed in quantity ten acres in 4 one parcel, for the purpose of district high schools and grounds, 5 and may, in the year one thousand nine hundred and nineteen and 6 one thousand nine hundred and twenty, lay a special levy of not to 7 exceed fifteen cents on the one hundred dollars valuation of all 8 property situate in said district to pay for the land so acquired.

# House Bill No. 63

[BY MR. WEISS.]

Introduced January 15, 1919. Referred to the Committee on Private Corporations and Joint Stock Companies; January 29, reported back with the recommendation that it do pass; January 31, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL to license and regulate the business of making loans in sums of one hundred dollars (\$100.00) or less, secured or unsecured, at a greater rate of interest than six per centum per annum, prescribing the rate of interest and charge therefor, and penalties for the violation thereof, and regulating the assignment of wages or salaries, earned or to be earned, when given as security for any such loan.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That no person, co-partnership, or corporation shall engage in the business of making loans of money, credit, goods, or things in action in the amount, or to the value of one hundred dollars (\$100.00), or less, and charge, contract for, or receive a greater rate of interest than six per centum per annum therefor, except as authorized by this act and without first obtaining a license from the commissioner of banking, hereinafter called the licensing official.

Sec. 2. Application for such license shall be in writing and shall contain the full name and address, both of the residence and

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place of business, of the applicant, and if the applicant is a co-partnership, of every member thereof, or if a corporation, of each officer thereof; also the county and municipality, with street and number, if any, where the business is to be conducted. Every such applicant at the time of making such application, shall pay to the licensing official the sum of one hundred dollars (\$100.00) as an annual license fee and in full payment of all license fees, either state, county or municipal, and of all expenses of examinations under, and administration of this act, provided that if the license is issued for a period of less than twelve months the license fee shall be pro-rated according to the number of months that said license shall run. Said license fees shall be collected by the licensing official and immediately paid by him into the state treas-

16 ury, and kept in a separate fund therein until the end of the then  
17 fiscal year. The expense of examination, visitation and control of  
18 licenses incurred by the licensing official or of his assistants, as  
19 hereinafter provided, shall be paid out of said license fee fund  
20 in the state treasury upon requisition of the licensing official upon  
21 the state auditor, accompanied by an itemized full statement of  
22 such expenses duly sworn to before some officer authorized to ad-  
23 minister oaths. The remainder of such license fees fund remain-  
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24 ing in the treasury at the end of each fiscal year shall then be  
25 placed to the credit of the general state fund, by the auditor.

Sec. 3. The applicant shall also, at the time, file with the  
2 licensing official a bond in which the applicant shall be the obligor,  
3 in the sum of one thousand dollars (\$1,000) with one or more  
4 sureties to be approved by the licensing official which bond shall  
5 run to the state of West Virginia for the use of the state, and of  
6 any person, or persons who may have a cause of action against the  
7 obligor of said bond under the provisions of this act. Such bond  
8 shall be conditioned that said obligor will conform to and abide by  
9 each and every provision of this act and will pay to the state and  
10 to any such person or persons, any and all moneys that may become  
11 due or owing to the state and to such person, or persons, from said  
12 obligor, under and by virtue of the provisions of this act.

Sec. 4. Upon the filing of such application and the approval  
2 of said bond and the payment of said fee, the licensing official shall  
3 issue a license to the applicant to make loans in accordance with  
4 the provisions of this act for a period which shall expire the  
5 thirtieth day of June next following the date of its issuance.  
6 Such license shall not be assignable.

Sec. 5. If in the opinion of the licensing official the bond  
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2 shall at any time appear to be insecure, or exhausted, or otherwise  
3 doubtful, an additional bond in the sum of not more than one  
4 thousand dollars (\$1,000) satisfactory to the licensing official shall  
5 be filed within ten (10) days after notice to the licensee and upon  
6 failure of the obligor to file such additional bond, the license shall  
7 be revoked by the licensing official.

Sec. 6. The licensing official may, upon notice to the licensee  
2 and reasonable opportunity to be heard, revoke such license if the  
3 licensee has violated any provision of this act; and in case the  
4 licensee shall be convicted by a court a second time of violation

5 of section thirteen of this act the licensing official shall revoke such  
6 license; *provided*, that the second offense shall have occurred  
7 after a prior conviction, in which case another license shall not be  
8 issued to such licensee, nor to the husband or wife of the licensee,  
9 nor to any co-partnership or corporation of which he is an officer  
10 or member.

Sec. 7. The license shall be kept conspicuously posted in the  
2 place of business of the licensee.

Sec. 8. No person, co-partnership, or corporation so licensed  
2 shall make any loan provided for by this act, under any other  
3 name or at any other place of business, than that named in the  
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4 license. Not more than one place of business shall be maintained  
5 under the same license, but the licensing official shall issue more  
6 than one license to the same licensee upon the payment of an  
7 additional license fee and the filing of additional bond for each  
8 license.

Sec. 9. Whenever the licensee shall change his place of  
2 business, he shall at once give written notice thereof to the  
3 licensing official who shall attach to the license his approval in  
4 writing of the change.

Sec. 10. The licensing official for the purpose of discovering  
2 violations of this act, may either personally, or by a assistant, at any  
3 time and as often as he may desire, investigate, the loans and  
4 business of every licensee and of every person, co-partnership and  
5 corporation by whom, or which any such loan shall be made,  
6 whether such person, co-partnership, or corporation shall act, or  
7 claim to act as principal, again, or broker, or under, or without  
8 the authority of this act; and for that purpose he shall have free  
9 access to the office or place of business, books, papers, records,  
10 safes and vaults of all such persons, co-partnerships and corpor-  
11 rations; he shall also have authority to examine, under oath, all

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12 persons whomsoever, whose testimony he may require, relative to  
13 such loans, or business.

Sec. 11. The licensee shall keep such books and record in  
2 his place of business as in the opinion of the licensing official  
3 will enable the licensing official to determine whether the pro-  
4 visions of this act are being observed. Every such licensee shall  
5 preserve the records of final entry used in such business, includ-

6 ing cards used in the card system, if any, for a period of at least  
7 two years after the making of any loan recorded therein.

Sec. 12. No licensee, or other person, co-partnership or  
2 corporation, shall print, publish, or distribute, or cause to be  
3 printed, published, or distributed in any manner whatsoever,  
4 any written, or printed statement with regard to the rates, terms  
5 or conditions for the lending of money, credit, goods, or things in  
6 action, in amounts of one hundred dollars (\$100) or less, which  
7 is false, or calculated to deceive.

Sec. 13. Every person, co-partnership and corporation  
2 licensed hereunder may loan any sum of money not exceeding in  
3 amount the sum of one hundred dollars (\$100) and may charge,  
4 contract for and receive thereon interest at a rate not to exceed  
5 three and one-half (3 1-2) per centum per month.

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6 Interest shall not be payable in advance, or compounded and  
7 shall be computed on unpaid balances. In addition to the inter-  
8 est herein provided for, no further or other charge, or amount  
9 whatsoever for any examination, service, brokerage, commission  
10 or other thing, or otherwise, shall be directly, or indirectly charg-  
11 ed, contracted for, or received except the lawful fees, if any, actu-  
12 ally and necessarily paid out by the licensee to any public officer,  
13 for filing, or recording, or releasing in any public office, any in-  
14 strument securing the loan, whih fees may be collected when the  
15 loan is made, or at any time thereafter.

16 If interest, or charges in exces of those permitted by this ast  
17 shall be charged, contracted for, or received, the contract of loan  
18 shall be void and the licensee shall have no right to collect, or  
19 receive any principal, interest or charges whatsoever.

20 No person shall owe any licensee, as such, at any time more  
21 than one hundred dollars (\$100) for principal.

Sec. 14. Every licensee shall deliver to the borrower, at the  
2 time a loan is made, a statement in the English language show-  
3 ing in clear and distinct terms the amount and date of the loan and  
4 of its maturity, the nature of the security, if any, for the loan,  
5 the name and address of the borrower and of the licensee and the

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6 rate of interest charged. Upon such statement there shall be  
7 printed in English a copy of section thirteen of this act; give to  
8 the borrower a plain and complete receipt for all payments made on  
9 account of any such loan at the time such payments are made.



10 Upon payment of the loan in full, mark indelibly every paper  
11 signed by the borrower with the word "paid" or "cancelled", and  
12 release any mortgage, restore any pledge, cancel and return any  
13 note and cancel and return any assignment given by the bor-  
14 rower as security.

2 or any power of attorney. Nor shall he take any note, promise  
3 to pay, or security that does not state the actual amount of the  
4 the loan, the time for which it is made and the rate of interest  
5 charged, for any instrument in which blanks are left to be filled  
6 after execution.

Sec. 16. No assignment of or order for the payment of any  
2 salary or wages, earned or to be earned, given to secure any such  
3 loan shall be valid unless such loan is contracted simultaneously  
4 with its execution; nor unless in writing signed in person by the  
5 borrower; nor if the borrower is married, unless signed in person

Sec. 15. No licensee shall take any confession of judgment,  
6 by both husband and wife; provided that written assent of a  
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7 spouse shall not be required when husband and wife have bene  
8 living separate and apart for a period of at least five months  
9 prior to such assignment.

10 Under any such assignment or order for the payment of  
11 future salary or wages given as security for a loan made under this  
12 act, a sum equal to ten (10) per centum of the borrower's salary or  
13 wages shall be collectible therefrom by the licensee at the time of  
14 each payment of salary or wages from the time that a copy of  
15 such assignment, verified by the oath of the licensee, or his agent,  
16 together with a verified statement of the amount unpaid upon such  
17 loan, is served upon the employer.

Sec. 17. No person, co-partnership, or corporation, except  
2 as authorized by this act, shall, directly, or indirectly, charge,  
3 contract for, or receive any interest, or consideration greater than  
4 six per centum per annum upon the loan, use, or forbearance of  
5 money, goods, or things in action, or upon the loan, use or sale of  
6 credit of the amount, or value of one hundred dollars (\$100)  
7 or less.

8 The foregoing prohibition shall apply to any person who, as  
9 security for any such loan, use or forbearance of money, goods or  
10 things in action or for any such loan, use or sale of credit, makes

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11 a pretended purchase of property from any person and permits the

12 owner or pledgor to retain the possession thereof, or who, by any  
 13 device or pretense of charging for his service, or otherwise seeks  
 14 to obtain a greater compensation than is authorized by this act.

15 No loan for which a greater rate of interest or charge than is  
 16 allowed by this act has been contracted for or received, wherever  
 17 made, shall be enforced in this state, and any person in any wise  
 18 participating therein in this state shall be subject to the provisions  
 19 of this act.

Sec. 18. Any person, co-partnership, or corporation and the  
 2 several officers and employees thereof who shall violate any of the  
 3 provisions of sections one, eight, twelve, thirteen, or seventeen of  
 4 this act shall be guilty of misdemeanor and upon conviction  
 5 thereof shall be punished by a fine of not more than five hundred  
 6 dollars (\$500), or by imprisonment, of not more than six months,  
 7 or by both such fine and imprisonment, in the discretion of the  
 8 court. A justice of the peace shall have concurrent jurisdiction  
 9 with the circuit court and other courts having criminal jurisdic-  
 10 tion in his county for the trial of offenses arising under this act.

Sec. 19. This act shall not apply to any person, co-partner-  
 2 ship, or corporation doing business under any law of this state, or  
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3 of the United States relating to banks, trust companies, building  
 4 and loan associations, or licensed pawnbrokers.

Sec. 20. All acts and parts of acts inconsistent with the  
 2 provisions of this act are hereby repealed.

## House Bill No. 300

[BY MR. MOLLOHAN.]

Introduced February 13, 1919. Reference to a committee dispensed  
 with. February 17, coming up in regular order for consideration,  
 was read a first time and ordered to its second reading.

A BILL to create the municipal corporation of the city of Richwood,  
 in the county of Nicholas, to grant a charter thereto and to annul  
 the charter of the town of Richwood.

*Be it enacted by the Legislature of West Virginia:*

*City of Richwood.*

Section 1. That the inhabitants of that portion of Nicholas  
 2 county, in the state of West Virginia, included in the boundaries

3 of section two of this act, be and they are hereby a municipal  
4 corporation by the name of the city of Richwood by which name  
5 they shall have perpetual succession and a common seal, and by  
6 which name they may sue and be sued, plead and be impleaded,  
7 contract and be contracted with, and purchase, otherwise acquire  
8 and hold real estate and personal property needed in the discharge  
9 of the functions of government conferred by this charter.

*Boundaries.*

Sec. 2. Beginning at a stake near the handle factory, which  
2 is located N. five and one-half degrees W. five hundred feet from  
3 the northeast corner of the town of Richwood; thence S. seventy  
4 degrees W. crossing the north fork of Cherry river at two hundred  
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5 and ninety feet, the county road at one thousand and five feet,  
6 another road at three thousand seven hundred and eighty-seven  
7 feet; and another county road at four thousand six hundred and  
8 twenty-two feet, in all eleven thousand one hundred and sixty-  
9 three feet to the "fishing rock"; thence S. twenty degrees E.  
10 three thousand eight hundred feet to a large rock on the hillside  
11 near the Cook house, and on the west side of Little Laurel; thence  
12 N. eighty-three degrees E. crossing Little Laurel at seven hun-  
13 dred and thirty-five feet, the Greenbrier road at six thousand one  
14 hundred feet, and the Browning road at ten thousand five hundred  
15 and ninety feet, in all ten thousand six hundred and seventy-five  
16 feet to a large rock below said road; thence north twenty-one  
17 degrees E. crossing the south fork of Cherry river seven hundred  
18 and twenty feet, in all two thousand three hundred and fifty feet  
19 to a stake on the hillside near a drain; thence N. twenty-three  
20 and one-fourth degrees W. two thousand one hundred and twenty  
21 feet to a stake on a cliff; thence N. thirty-six degrees W. two  
22 thousand two hundred and ninety feet to the beginning.

Sec. 3. The laws of the state of West Virginia, of a general  
2 nature governing towns in this state incorporated under orders  
3 of the circuit courts, as provided in chapter forty-seven of the  
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4 code of West Virginia, shall apply to and govern the city of Rich-  
5 wood in like manner, as if the same were herein specifically set  
6 forth, and made a part hereof.

Sec. 4. The charter of the town of Richwood is hereby an-  
2 nulled and the said city of Richwood shall succeed to all the rights,  
3 powers and responsibilities of the town of Richwood as they exist

4 the day preceding the day on which this act takes effect, and  
 5 shall enjoy such rights, exercise such powers, and discharge such  
 6 responsibilities in the same manner as the same should have been  
 7 enjoyed, exercised and discharged if this act had not passed.

*Existing Ordinances.*

Sec. 5. All the ordinances, by-laws, resolutions and rules of  
 2 the town of Richwood in force on the day preceding the passage  
 3 of this act, which are not inconsistent therewith, shall be and re-  
 4 main in full force over the whole boundary of said city of Rich-  
 5 wood, as established by this act, until the same are amended or  
 6 repealed by the council of defense of said city, and the officers  
 7 in office in the town of Richwood at the time this act takes effect  
 8 shall remain in office until their successors under this act are  
 9 elected and qualified, as hereinbefore provided; and after this act  
 10 takes effect shall have jurisdiction over all the territory embraced

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11 in the boundary specified in this act, and shall perform all the  
 12 duties of such respective officers under this act; but nothing in  
 13 this act shall be construed or held to in any way affect or impair  
 14 any of the bonds, obligations or indebtedness to the town of Rich-  
 15 wood issued or contracted prior to the time this act takes effect,  
 16 but on the contrary, the said city of Richwood shall be liable for  
 17 all the bonds, obligatioons and indebtedness of the town of Rich-  
 18 wood as though the same had been created in the name of the  
 19 city of Richwood.

*Repeal of Inconsistent Ordinances and Acts.*

Sec. 6. All ordinances of the town of Richwood as they exist  
 2 at the time of the passage of this act which are inconsistent there-  
 3 with are hereby abrogated, and all acts and parts of acts incon-  
 4 sistent with any of the provisions of this act are hereby repealed.

## House Bill No. 241

[BY MR. KUYKENDALL.]

Introduced February 3, 1919. Referred to the Committee on  
 Taxation and Finance. February 13, reported back with the recom-  
 mendation that it do pass; read a first time and ordered to its second  
 reading.

A BILL providing for the issuance of bonds and prescribing the  
 limitation of indebtedness for cities, towns and villages.

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred and forty-one, section —, of the acts of one thousand eight hundred and seventy-two and three, being section forty-nine-b-1 of chapter forty-seven of Hogg's code, be enacted so as to read as follows:

All municipal corporations for the government of 2 cities, towns and villages in this state, are hereby authorized to 3 issue their bonds and to sell the same; *provided*, that no such 4 corporation shall by such issue and sale of bonds, cause the aggregate of its debt of every kind whatsoever, to exceed five per centum 5 of the value of taxable property therein, which value shall be 6 ascertained by the last assessment for state and county taxes 7 previous to the issue of such bonds; nor shall they make such 8 issue and sale, without at the same time providing for the collection of a direct annual tax, sufficient to pay annually the interest 9 of such debt, and the principal thereof within and not exceeding 10 thirty-four years.

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13 But no city, town or village shall ever impose or exact from 14 the inhabitants thereof a greater amount annually than two per 15 cent on the assessed value of property for state and county purposes, beyond a tax for railroad purposes, which may be imposed 16 for that object not exceeding three per cent of such value.

18 The foregoing rate may be augmented not exceeding sixty 19 per cent of the rates here provided, if submitted to a vote of the 20 inhabitants of any such city, town or village and approved by 20-a three-fifths of the qualified voters therein voting on the question. Every city, town or village shall be authorized 20-b to impose taxation on every inhabitant thereof to the extent of 21 the value of his property therein. Such taxes shall be uniform with 22 respect to persons and property within their jurisdiction, and 23 shall only be levied on such property, real and personal and mixed, 24 and on capital, on which the state imposes a tax, and on licenses; 25 but no special tax shall ever be imposed except the special tax be 26 on such subject as the state imposes a license tax for the exercise 27 of a privilege. Every city, town and village by its corporate 28 authorities, in the exercise of its police force and fiscal affairs, 29 may impose a license tax for any privilege for the exercise of 30 which the state imposed a license tax and for the right to tax such 31 H. B. No. 241]

## 5

32 privilege and for the purpose of enforcing the same, and such

33 police regulations as may be prescribed for such city, town or  
 34 village, the jurisdiction of every city, town or village shall extend  
 35 one mile beyond the corporate limits of any such city, town or  
 36 village as prescribed by the act of its incorporation. All such  
 37 taxes on such property and capital may be assessed and collected  
 38 by such council in such manner, and shall be accounted for at  
 39 such time or times as may be prescribed by the council of any  
 40 such city, town or village. But no such tax on any such property  
 41 or capital outside of said corporation limits and within said mile,  
 42 shall be imposed by any such council, and the power of taxation  
 43 outside of said limits and within said line, shall only extend to the  
 44 imposition of a license tax on such subjects as the state imposes a  
 45 license tax, and the power of enforcing the payment thereof.

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## House Bill No. 63

AN ACT to provide for a vote on the school levy in West Union district, Doddridge county, and in other districts in said county, or in the state.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That a special election on the question of the  
 2 school levy shall be held on the third Tuesday in May one thou-  
 CH. 3] UNION DISTRICT HIGH SCHOOL 127  
 3 sand nine hundred and nineteen, in West Union district, Dod-  
 4 dridge county, and in other districts in said county, and in all other  
 5 districts of the state which failed to vote the school levy at the  
 6 general election in November, one thousand nine hundred and  
 7 eighteen. The voting at said election shall be by ballot at all the  
 8 regular voting places, and it shall be the duty of the board of ed-  
 9 ucation of each district to give at least ten days' notice of such  
 10 election by causing written or printed notice thereof to be posted  
 11 at each place of voting and such other places as they may deem  
 12 necessary. Books for said election shall be prepared by the board  
 13 of education of each district for the several places of voting there-  
 14 in, and delivered to the commissioners, or some of them, appointed  
 15 to superintend the election at each place of voting, before seven  
 16 o'clock a. m., of the day of which the election is held.  
 17 The ballots used at said election shall have written or printed  
 18 thereon the words "For school levy" and "Against school levy," and

19 if a majority of the ballots cast upon that question in a district  
20 have written or printed thereon "For school levy," it shall be the  
21 duty of the board of education to make the levies required by sec-  
22 tion twenty-one of chapter forty-five of the code, and the levy voted  
23 for at such election shall continue until the next general election  
24 in which a county superintendent is elected, but if a majority of  
25 the ballots cast in a district have written or printed thereon  
26 "Against school levy," no levy shall be made by said board for the  
27 next year succeeding. But in such case it shall be the duty of said  
28 board to cause a special election to be held on the same day in the  
29 following year, at which the question of levy or no levy shall in  
30 like manner again be submitted to the people for their decision,  
31 and if a majority of the ballots cast at such special election be "For  
32 school levy," such levy shall be made as hereinbefore required.

33 The poll shall be held, the election conducted, the official rec-  
34 ords returned and the result ascertained in accordance with the  
35 provisions of section one hundred and sixty of chapter forty-five of  
36 the code.

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## House Bill No. 33

AN ACT authorizing the board of education of Union independent  
school district, in the county of Marion, to issue bonds for the  
purpose of providing a high school for said district.

*Be it enacted by the Legislature of West Virginia.*

Section 1. That the board of education of Union indepen-  
dent school district in the county of Marion, West Virginia, be  
and it is hereby authorized and empowered to issue the bonds of  
said school district to an amount sufficient for the purpose of pro-  
viding a suitable plot of land, and of erecting thereon, and fur-  
nishing and equipping, a suitable high school building, within said  
school district.

Sec. 2. Said bonds shall be of such denomination as said  
board of education shall by order prescribe, and shall be payable  
in not less than five years nor more than thirty-four years, at the  
option of said board of education, and shall bear interest at the  
rate of not to exceed six per centum per annum, payable annually;  
provided, that the aggregate of said bonds for said purposes, in-  
cluding existing indebtedness of said district, shall not exceed five  
per centum of the value of all the taxable property in said district,

9 to be ascertained by the last assessment for state and county pur-  
10 poses next before the incurring of such indebtedness; and said  
11 board of education shall provide by levy a direct annual tax suffi-  
12 cient to pay annually the interest on such indebtedness, and the  
13 principal when due.

Sec. 3. But no such bonds shall be issued under this act,  
2 unless the question of issuing the same shall have first been sub-  
3 mitted to the voters of said school district, at an election to be  
4 held for that purpose, and shall have received three-fifths of all the  
5 votes cast for and against the same. Such bond election shall be  
6 held and conducted under the supervision of said board of educa-  
7 tion, and the result thereof shall be ascertained and certified by  
8 said board, which shall appoint at least three qualified voters to  
9 hold said election at each of the following named precincts, to-wit,  
10 at the Central school building, and at the East Park school build-  
11 ing, one of which said persons so appointed shall act as clerk, and  
12 the other two shall act as commissioners of the election. A no-  
13 tice of said election, duly published in two newspapers of gen-  
14 eral circulation in said district, once a week for two weeks prior  
15 to said election, shall be sufficient notice and publication thereof.

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## House Bill No. 38

AN ACT to amend and re-enact sections nine and eleven of chapter  
twenty-eight, of the acts of the legislature of one thousand nine  
hundred and seven, as amended and re-enacted by chapter one  
hundred and twelve, of the acts of the legislature of one thousand  
nine hundred and fifteen, relating to the criminal court of  
McDowell county.

*Be it enacted by the Legislature of West Virginia:*

That section nine of chapter twenty-eight, of the acts of the legis-  
lature of one thousand nine hundred and seven and section eleven of  
chapter twenty-eight, of the acts of the legislature of one thousand  
nine hundred and seven, as amended by chapter one hundred and  
twelve, of the acts of the legislature of one thousand nine hundred  
and fifteen, relating to the criminal court of McDowell county, be  
amended and re-enacted, so as to read as follows:

Sec. 9. The judge shall receive for his services, \$4,800.00  
2 per annum, to be paid out of the county treasury.



Sec. 11. There shall be four terms of said court held in  
2 each year, commencing on the second Monday in January, the  
3 second Monday in April, the second Monday in July, the first  
4 Monday in October. Adjourned and special terms of said court  
5 may be called and held as provided for special terms of the circuit  
6 court.

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## House Bill No. 70

AN ACT to authorize the board of commissioners of the county of  
Ohio to establish and maintain a county law library.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of commissioners of the county of  
2 Ohio be and the said board of commissioners of the county of  
3 Ohio are hereby authorized to establish and maintain a law  
4 library for the use of the judges of the courts of said county, all  
5 attorneys at law practicing in said courts, and all public officers  
6 of said county, or any sub-division thereof, or municipality therein.  
7 Said library shall be known and designated as "The Ohio County  
8 Law Library" and shall be located in the court house in the city  
9 of Wheeling. The said board of commissioners of the county of  
10 Ohio shall purchase law books, law periodicals, stationery, sup-  
11 plies, furniture and equipment for said library, and for said pur-  
12 poses shall have authority to expend money; *provided, however,*  
13 that no law books shall be purchased for said library except upon  
14 the order of the judges of the circuit court of the first judicial  
15 district, or the judges thereof in vacation, and said court or judges  
16 shall have power to make and enforce all rules and regulations as  
17 may be deemed necessary for the government of said library and  
18 use thereof.

Sec. 2. For the purpose of caring for and maintaining  
2 the said library, a librarian shall be appointed by the board of  
3 commissioners of the county of Ohio, and such librarian shall be  
4 a resident of Ohio county, who shall hold his office at the will of  
5 the board of commissioners and shall be allowed and paid such  
6 salary out of the treasury of Ohio county as the board of com-  
7 missioners may advise, and required to give bond in such an  
8 amount as shall be indicated by the board and with such surety  
9 or sureties as the said board may require.

Sec. 3. Upon the recommendation or approval of the judges  
2 of the circuit court the board of commissioners shall have authority  
3 to exchange, sell or trade any law books now in said library.

Sec. 4. As soon as practicable after any new volume of the  
2 reports of the supreme court of appeals of West Virginia, as  
3 well as the bound volumes of the acts of the legislature have been  
4 printed, the officers charged with the distribution of the said re-  
5 ports and said acts shall deliver one copy of each to said library.  
6 And the said board of commissioners shall have authority to re-  
7 ceive for said library any books or other property by loan, gift or  
8 bequest.

Sec. 5. All acts and parts of acts inconsistent or in con-  
2 flict herewith, insofar as the same may be applicable to said  
3 county of Ohio, or said board of commissioners, are hereby repealed.

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## House Bill No. 82

AN ACT to authorize the board of education of Kanawha district,  
Fayette county, to make a contract for the construction of  
a high and graded school building, at Montgomery.

*Whereas*, it is represented to the legislature on behalf of the board  
of education of Kanawha district, Fayette county, that they have  
at their disposal \$35,000.00, and that they are in need of school  
buildings, which will cost at least \$100,000.00, in order to accommo-  
date the students of the town of Montgomery and Kanawha district.

*Be it enacted by the Legislature of West Virginia:* .

Section 1. That the board of education of Kanawha dis-  
2 trict, Fayette county, be, and is hereby authorized and empowered  
3 to make a contract for the construction of a high and a graded  
4 school building in the town of Montgomery. And said board is  
5 further authorized to lay a special levy for the years one thousand  
6 nine hundred and nineteen and one thousand nine hundred and  
7 twenty to raise not to exceed \$65,000.00 in addition to the \$35,-  
8 000.00 now in the treasury of said board.

## House Bill No. 43

AN ACT to amend and re-enact section fifteen of chapter forty-eight-a of the code of one thousand nine hundred and sixteen, relating to the salary of the state fire marshal.

*Be it enacted by the Legislature of West Virginia:*

That section fifteen of chapter forty-eight-a of the code be, and the same is, hereby amended and re-enacted so as to read as follows:

Section 15. The state fire marshal shall receive an annual salary of three thousand dollars, and the deputy fire marshal shall receive an annual salary of one thousand five hundred dollars. The state fire marshal shall be authorized to employ a stenographer or clerk, and incur such other expenses as may be necessary in the performance of the duties of his office, including the necessary traveling expenses, not to exceed, including salary, such sums as may be paid into the state treasury in the manner hereinafter provided, or by appropriation or contribution.

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## House Bill No. 14

AN ACT pertaining to the public health.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the state of West Virginia shall purchase and furnish free of charge to each county within the state, a sufficient supply of diphtheria anti-toxine, to the indigent poor, the amount of which shall be determined by the county health officer of each county, and deposited in such drug-stores or any other store within said county as said county health officer may designate, and such anti-toxine shall be kept at said drug-stores or any other store at all times and in sufficient quantities to be delivered to any licensed physician by said drug-stores or any other store, and by said physicians to be used upon persons infected with diphtheria, or to prevent the same, without cost to the patient so treated.

Sec. 2. The anti-toxine mentioned in the preceding section shall be bought by the state commissioner of health and by him distributed to the various drug-stores or any other store designated by the county health officers of the various counties of this state, and such county health officers shall designate such drug-

6 stores or any other store as they may think proper as depositories  
7 for said anti-toxine, and the state commissioner of health shall  
8 deliver to the drug-stores or any other store aforesaid, so named  
9 as depositories, so much anti-toxine as may be reasonably neces-  
10 sary for use in each of said counties for the purposes aforesaid,  
11 and take a receipt from the proprietor of such drug-stores or any  
12 other store for the same. And the auditor of the state shall pay  
13 the actual cost of such anti-toxine and the cost of the delivery  
14 of the same to such drug-stores or any other store, upon the  
15 presentation of the original invoices thereof, duly verified by af-  
16 fidavit, and approved by the state health commissioner, and shall  
17 in addition thereto pay to the drug-stores or any other store for  
18 delivery of the same to the physicians aforesaid, ten per cent.  
19 commission of the original cost of said anti-toxine so delivered  
20 to the physicians aforesaid. And the legislature at each session  
21 thereof shall make appropriations for the payment of said anti-  
22 toxine and the commissions thereon.

Sec. 3. All acts and parts of acts coming within the purview  
2 of this act, and inconsistent herewith, are hereby repealed.

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## House Bill No. 25

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of McDowell county, is hereby  
2 authorized and empowered to establish and maintain, in said  
3 county, as herein provided, a dental clinic, for the benefit of all  
4 resident children in said county, under the age of sixteen years,  
5 and to prescribe rules and regulations for the government of said  
6 clinic.

Sec. 2. Said county court is authorized to appoint for a term  
2 of four years, from the first day of July after this act shall take  
3 effect, and every four years thereafter, a competent dentist, licensed  
4 to practice dentistry in the state of West Virginia, who shall have  
5 had at least five years of experience and who is a member in good  
6 standing of the West Virginia Dental Society, who shall be  
7 known as county director of dental clinic, and fix his salary, and  
8 said county director may be removed as provided by section seven  
9 of chapter seven of the code of West Virginia.

Sec. 3. Said county court is authorized to purchase and furnish all equipment, supplies and materials that may be necessary to establish and maintain said dental clinic, and pay for the same out of the funds hereinafter provided, and to prescribe rules and regulations for the government and management of said dental clinic.

Sec. 4. Said county court is authorized to lay a levy not to exceed ten cents on every one hundred dollars of valuation of the taxable property in the county, according to the last assessment thereof, for the year one thousand nine hundred and nineteen; to lay a levy not to exceed seven and one-half cents on every one hundred dollars of valuation of the taxable property in the county, according to the last assessment thereof, for the year one thousand nine hundred and twenty; and to lay a levy not to exceed five cents on every one hundred dollars of valuation of the taxable property in the county, according to the last assessment thereof, for the year one thousand nine hundred and twenty-one, and each succeeding year thereafter, to pay the expenses and cost of establishing and maintaining said clinic, which shall be known as the dental clinic fund.

Sec. 5. Said county director shall with the approval of the county court employ as many dentists as may, in his judgment, be necessary for the successful conduct of said clinic, who shall be in good standing in their profession, and licensed to practice dentistry in the state of West Virginia; said county court shall fix the salaries of said dentists, and they shall be subject to the direction and control of said county director, and may be removed or discharged by him at any time he may deem advisable.

Sec. 6. Said county director shall employ with the approval of the county court, such clerks, assistants and other help as may, in his judgment, be necessary and required for the proper and successful conduct and management of such dental clinic, and he shall have authority to discharge and discontinue the services of said clerks, assistants and other help at any time, but the salaries of such employees shall be fixed by said court.

Sec. 7. Said county court may require said county director to keep books of account, and such other records, and make such reports from time to time, as may be prescribed by the court, and all dentists, clerks, assistants and help employed as herein provided, shall furnish the county director with such reports as he may require.

Sec. 8. All persons employed under this act, shall be paid 2 monthly out of the fund hereinbefore provided for, upon requisition issued by the county director in the manner prescribed by 3 the county court.

Sec. 9. The county superintendent of schools, the boards of 2 education, the district superintendents and teachers, and all other 3 persons employed in said county in connection with school work, 4 shall assist and co-operate with said county director, and all persons employed by him in said clinical work.

Sec. 10. The county court shall not lay the levy herein provided for, until authorized by the voters of the county, at a general or special election, to be held, as provided for in section seven, 4 of chapter twenty-eight-a, of the code of West Virginia.

## House Bill No. 15

(House Bill No. 15.)

AN ACT to establish a state institution for the deaf and blind persons of the Negro race, and to provide for the management of such institution.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There is hereby established for the care, treatment and education of the deaf and blind persons of the Negro race a state institution to be known as the colored deaf and blind school. It shall belong to that class of institutions mentioned in section three of chapter fifty-eight of the acts of one thousand nine hundred and nine, and shall be managed and controlled as provided in said act, all the provisions whereof shall be as applicable to said school as if the same were named in said section three of said act. The chief executive officer thereof shall be the principal, and shall be a graduate of some reputable college and shall have had at least six years experience as a teacher and shall be a person of good executive ability, and shall be appointed by the governor with the advice and consent of the senate.

Sec. 2. The state board of control and a committee of three colored persons, citizens of West Virginia, appointed by the governor, shall jointly select a suitable site for such school and provide plans for the necessary buildings as soon after July first, one thousand and nine hundred and nineteen, as practicable; and thereafter all the provisions of said chapter fifty-eight of the acts of one thousand

7 and nine hundred and nine and chapter forty-five of Barnes'  
8 nineteen hundred and sixteen West Virginia code shall govern  
9 herein as far as applicable.

Sec. 3. All such deaf and blind youths of the Negro race,  
2 residents of the state, between the ages of eight and twenty-five  
3 years, shall be admitted to the institution on application to the  
4 principal, until the institution is filled. Applicants shall be ad-  
5 mitted in the order of their application, and it shall be the duty of  
6 the principal to keep a careful record of the names of all applicants,  
7 with the dates of the admission and discharge, their age, post of-  
8 fice address, the name of their parents or guardians and the degree,  
9 cause and circumstances of their deafness and blindness.

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## House Bill No. 75

AN ACT to amend and to re-enact section four of chapter twenty-  
seven of the acts of one thousand nine hundred and nine.

*Be it enacted by the Legislature of West Virginia:*

That section four, of chapter twenty-seven, of the acts of one  
thousand nine hundred and nine be amended and re-enacted so as to  
read as follows:

Section 4. The judge of the said criminal court shall receive  
2 for his services a salary of four thousand dollars per year; said  
3 amount to be fixed and paid from year to year by the county court  
4 of said county out of the funds of said county as provided by  
5 statute.

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## House Bill No. 19.

AN ACT to establish a state institution for the care and treatment of  
insane persons and other incurable mental defectives of the Negro  
race, and to provide for the management of such institution.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There is hereby established for the care and treat-  
2 ment of insane persons, or persons who are mentally afflicted and  
3 such other incurable mental defectives of the Negro race as the

4 state board of control shall deem eligible, a state institution to be  
5 known as the state colored hospital for the insane. It shall belong  
6 to that class of institutions mentioned in section three of chapter  
7 fifty-eight of the acts of one thousand nine hundred and nine, and  
8 shall be managed and controlled as provided in said act, all the pro-  
9 visions whereof shall be as applicable to said hospital as if the same  
10 were named in said section three of said act. The chief executive  
11 officer thereof shall be the superintendent, who shall be a legally  
12 qualified physician of at least six years experience in the practice  
13 of his profession, and shall be a person of good executive ability,  
14 and shall be appointed by the governor with the advice and consent  
15 of the senate.

Sec. 2. The state board of control and a committee of three  
2 colored persons, citizens of West Virginia, appointed by the gov-  
3 ernor, shall jointly select a suitable site for such hospital and pro-  
4 vide plans for the necessary buildings as soon after July first, one  
5 thousand nine hundred and nineteen, as practicable; and there-  
6 after all the provisions of said chapter fifty-eight of the acts of one  
7 thousand nine hundred and nine and of chapter fifty-one of the  
8 acts of one thousand nine hundred and fifteen shall govern herein  
9 as far as applicable.

Sec. 3. There shall be admitted to said hospital persons of  
2 the Negro race, residents of this state, who may be insane or  
3 mentally afflicted and such other incurable mental defectives as the  
4 state board of control shall deem eligible; all like persons of said  
5 race now confined in any other state institution shall be trans-  
6 ferred by the state board of control to said hospital as soon after its  
7 completion as practicable.

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## House Bill No. 116

AN ACT relating to claims against the state, county courts, boards  
of education and municipalities, and the allowance and payment  
thereof.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any county court, board  
2 of education or the council of a municipal corporation, or other  
3 body charged with the administration of the fiscal affairs of any  
4 county, school district or independent district or a municipality,  
5 to pay any claim for services rendered or materials furnished



6 unless an itemized account therefor is filed by the claimant, cover-  
7 ing the claim; said account shall be itemized in detail, and shall  
8 show, among other things, the following: If the claim is for serv-  
9 ices, it shall show the kind of service and dates when same were  
10 performed and the name of the person performing the service;  
11 if the claim is for material or supplies furnished the claim shall  
12 show in detail the kind of material or supplies, the quantity, dates  
13 of delivery and to whom delivered; if the claim is for road or  
14 bridge work or for road or bridge material, the amount of which  
15 claim is for material in excess of five dollars and for labor in ex-  
15-a cess of twenty-five dollars, the claim shall be verified by the  
16 affidavit of the person making the claim, and in such affidavit the  
17 person making the claim shall be required to state that the serv-  
18 ices performed or materials furnished, as set forth in said claim,  
19 were actually performed or actually furnished, and that the claim  
20 as stated is true and correct and that there is justly due to the  
21 claimant the sum set forth in the account. If any person shall  
22 swear falsely in the making of such affidavit, he shall be deemed  
23 guilty of false swearing. The president or presiding officer of the  
24 fiscal body allowing claims shall endorse on all accounts allowed  
25 the words "allowed and payment authorized," together with the  
26 date of allowance and signature of the president or other presiding  
27 officer.

Sec. 2. It shall be unlawful for any state officer to issue his  
2 requisition on the state auditor in payment of any claim unless an  
3 itemized account is filed in the office of the officer issuing the  
4 requisition. If the account is for services it shall show kind of  
5 service, dates when performed and name of persons performing  
6 the service; if the account is for materials or supplies it shall show  
7 in detail the kind of material or supplies, the quantity, dates of  
8 delivery and to whom delivered; if the account is for automobile  
9 hire or other transportation it shall show date, from where, to  
10 where, and the purpose of the expenditure. No account shall con-  
11 tain an item designated "sundry," "miscellaneous," or terms of like  
12 general nature.

Sec. 3. All acts and parts of acts inconsistent with this act  
2 are hereby repealed.

# House Bill No. 166

AN ACT authorizing the county court of Wirt county, West Virginia, to lay a special levy for the year one thousand nine hundred and twenty, and if necessary for the purpose for the year one thousand nine hundred and twenty-one on all taxable property of said county for the purpose of erecting a public bridge across the Little Kanawha river at the county-seat thereof, and providing for the receipt and disbursement of all moneys raised by said levy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. For the purpose of constructing a public bridge across 2 the Little Kanawha river, at the county seat of the county of 3 Wirt, the county court of said county is hereby authorized to lay 4 a special levy on all taxable property within the said county for 5 the year one thousand nine hundred and twenty and if necessary 6 for the year one thousand nine hundred and twenty-one, not to 7 exceed in either year ten cents on the one hundred dollar valua- 8 tion of said property, as assessed for regular state, county and 9 district taxation. Said levy shall be called a "special bridge 10 levy" and the funds derived therefrom shall be used for said pur- 11 pose and for no other.

Sec. 2. Said bridge shall be constructed according to such 2 plans and specifications as said county court may decide upon 3 and all moneys realized from said special levy shall be kept in a 4 separate fund and a separate account kept of the receipts and 5 disbursements of the same.

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# House Bill No. 61

AN ACT to amend and re-enact section one of chapter seventy of the acts of the legislature of one thousand eight hundred and ninety-one, (now serial section three hundred and thirty-five and also section one of chapter fifteen-a of the code of one thousand nine hundred and six) in reference to the office of state librarian.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter seventy of the acts of the legislature

of one thousand eight hundred and ninety-one be amended and re-enacted so as to read as follows:

Section 1. The supreme court of appeals or the judges thereof in vacation shall appoint a state librarian, who shall hold his office and be removable at the pleasure of said court or judges. His salary shall be the sum of eighteen hundred dollars per annum. He shall give bond in the penalty fixed by the court of not less than two nor more than five thousand dollars with surety thereon to be approved by the court. The state librarian now in office may hold the same until the first day of July, one thousand nine hundred and twenty-one, and until the appointment and qualification of his successor.

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## House Bill No. 78.

AN ACT to prohibit and regulate the employment of minors.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That no child under fourteen years of age shall be employed, permitted or suffered to work in, about, or in connection with any gainful occupation except agriculture or domestic service; provided that boys twelve years of age or over may be employed in mercantile establishments and business offices outside of school hours provided that they obtain a special work permit from the school authorities as hereinafter provided.

That it shall be unlawful for any person, firm or corporation to employ, permit, or suffer any child under fourteen years of age to work in any business or service whatever during any of the hours when the public schools of the school district in which the child resides are in session.

Sec. 2. That no child under the age of sixteen years shall be employed, permitted, or suffered to work in any occupation dangerous to the life or limb, or injurious to the health or morals of such child. The state commissioner of labor, the state commissioner of health, or the state superintendent of free schools may from time to time, after hearing duly had, determine whether or not any particular trade, process of manufacture, or occupation in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture, or occupation, is suf-

11 ficiently dangerous to the lives or limbs or injurious to the health  
12 or morals of children under sixteen years of age to justify their  
13 exclusion therefrom. No child under sixteen years of age shall  
14 be employed, permitted or suffered to work in occupation thus  
15 determined to be dangerous or injurious to such children. There  
16 shall be a right of appeal to the supreme court of appeals from  
17 any such determination.

17-a No child under the age of sixteen years shall be employed, per-  
17-b mitted, or suffered to work in any mine, quarry, tunnel or excava-  
18 tion. No child under the age of sixteen years shall be appren-  
19 ticed, given away, let out, or otherwise disposed of to any person  
20 or company to engage in the occupation or service of rope or wire  
21 walker, gymnast, contortionist, circus rider, acrobat or clown, nor  
22 in any indecent, obscene or immoral exhibition or practice; and  
23 it shall be unlawful for any person, firm or corporation, to take,  
24 receive or employ such child for any of the purposes or occupa-  
25 tions mentioned in this paragraph.

Sec. 3. That no child between the ages of fourteen and six-  
2 teen years shall be employed, permitted, or suffered to work in  
3 any gainful occupation, unless the person, firm or corporation by  
4 whom such child is employed, permitted, or suffered to work, ob-  
5 tains and keeps on file and accessible to officers charged with the  
6 enforcement of this act, a work permit issued by the superinten-  
7 dent of schools of the city or county in which such child resides,  
8 or person authorized by him in writing. The superintendent of  
9 schools or person authorized by him in writing shall issue such  
10 work permit only upon receipt of the following documents:

*Proof of Prospective Employment.*

11 A written statement signed by the person for whom the child  
12 expects to work, that he intends legally to employ such child and  
13 agrees to return the work permit to the issuing officer within two  
14 days of the termination of such child's employment.

*Proof of Age.*

15 (a) A birth certificate or attested transcript thereof  
16 issued by a registrar of vital statistics or other officer charged with  
17 the duty of recording births.

18 (b) Or a record of baptism or a certificate or attested tran-  
19 script thereof showing the date of birth and place of baptism of  
20 the child.

21 (c) Or a *bona fide* contemporary record of the date and  
22 place of the child's birth kept in the Bible in which the records of  
23 the births of the family of the child are preserved, or other docu-  
24 mentary evidence approved by the state commissioner of labor,  
25 such as a passport showing the age of the child, a certificate of  
26 arrival in the United States issued by the United States immigra-  
27 tion officers and showing the age of the child, or a life insurance  
28 policy; *provided*, that such other satisfactory documentary evi-  
29 dence has been in existence at least one year prior to the time it is  
30 offered in evidence; and *provided, further*, that a school record or  
31 parent's, guardian's or custodian's affidavit, certificate, or other  
32 written statement of age alone shall not be accepted.

33 (d) A certificate signed by the public health physician or a  
34 public school physician specifying what in the opinion of such  
35 physician is the physical age of the child; such certificate shall  
36 show the height and weight of the child and other facts concern-  
37 ing its physical development revealed by examination and upon  
38 which the opinion of the physician as to the physical age of the  
39 child is based. In determining such physical age the physician  
40 shall require that the school record or the school census record  
41 showing the child's age be submitted as supplementary evidence.

42 The issuing officer shall require first the proof specified in  
43 sub-division (a) and shall not accept the proof designated in any  
44 subsequent sub-division until he shall have been convinced that  
45 the proof specified in the preceding sub-division cannot be obtained.

#### *Proof of Schooling.*

46 A certificate signed by the principal of the school last attended  
47 showing that the child can read and write correctly simple  
48 sentences in the English language and that he has satisfactorily  
49 completed the studies covered in the first six yearly grades of the  
50 elementary public schools, or their equivalent; in case such  
51 certificate cannot be obtained, then the officer issuing the work  
52 permit shall examine such child to determine whether he can  
53 meet the educational standard specified and shall file in his office  
54 a statement setting forth the result of such examination.

#### *Proof of Physical Fitness.*

55 A certificate signed by a medical inspector of schools or public  
56 health officer stating that the child has been examined by him and  
57 in his opinion has reached the normal development of a child of

58 its age, and is in sound health and physically able to be employed  
59 in the occupation in which the child intends to engage.

60 *Provided*, that the superintendent of schools, or person author-  
61 ized by him in writing shall have authority and is hereby empower-  
62 ed to issue a vacation work permit to children fourteen years of  
63 age or over without requiring a statement that the child has com-  
64 pleted the sixth grade of the elementary course of study, or its  
65 equivalent, as hereinbefore provided. Such vacation work permit  
66 shall be different in form and color from the regular work permit  
67 and shall be valid only during the time when the public schools of  
68 the district in which the child resides are not in session. Every  
69 vacation work permit shall be null and void on the day the public  
70 schools open for regular session. *Provided, further*, that the super-  
71 intendent of schools or person authorized by him in writing, shall  
72 have authority and is hereby empowered to issue a special work  
73 permit to any boy twelve years of age or over to work in business  
74 offices and mercantile establishments outside of school hours with-  
75 out requiring a statement that he has completed any school grade  
76 whatsoever.

Sec. 4. That the work permit mentioned in the foregoing  
2 section shall set forth the full name, the date and place of birth  
3 of the child with the name and address of his parent, guardian,  
4 or custodian and shall certify that the child has appeared before  
5 the officer issuing the permit and submitted the proofs of age,  
6 physical fitness, schooling and prospective employment required  
7 in the foregoing section. Printed forms for these permits and  
8 certificates shall be prepared and furnished by the state commis-  
9 sioner of labor to the superintendent of schools in the cities and  
10 counties of the state. A copy of each permit issued shall be for-  
11 warded to the state commissioner of labor within four days of its  
12 issuance and there shall be kept in the office of the issuing officer  
13 a record of all permits granted and of all applications denied as  
14 well as all certificates of age, schooling, physical fitness and pros-  
15 pective employment submitted by the applicants for permits. The  
16 state commissioner of labor may at any time revoke a permit if in  
17 his judgment it was improperly issued and for this purpose he is  
18 authorized to investigate into the true age of any child employed  
19 to hear evidence and to require the production of relevant books  
20 or documents; if the permit be revoked the issuing officer and the  
21 person employing the child at the time shall be notified of such

22 action, and the child shall not thereafter be employed or permitted  
23 to labor until a new permit has been legally obtained.

Sec. 5. That upon the request of any employer who is de-  
2 sirable of employing a child who represents his or her age to be  
3 sixteen years or over, the local officer charged with the issuance of  
4 work permits shall require of such child the proof of age specified  
5 in section three of this act and upon receipt thereof if it be found  
6 that the child is actually sixteen years of age or over, shall issue  
7 to such employer a certificate showing the age and date and place  
8 of birth of such child. Such age certificate when filed in the office  
9 of the employer shall be accepted by the officer charged with the  
10 enforcement of this act as evidence of the age of the child in whose  
11 name it was issued. Any officer charged with the enforcement of  
12 this act may inquire into the true age of a child apparently under  
13 the age of sixteen years who is employed, permitted or suffered  
14 to work in any gainful occupation and for whom no work permit  
15 or age certificate is on file and if the age of such child be found  
16 to be actually under sixteen years the presence of such child in  
17 such establishment shall be deemed a violation of the provisions  
18 of this act. The state commissioner of labor may at any time re-  
19 voke any such age certificate if in his judgment it was improperly  
20 issued and for this purpose he is authorized to investigate into the  
21 true age of any child employed as in the case of work permits.  
22 The issuance of work permits and of age certificates shall be  
23 under the supervision of the state superintendent of free schools,  
24 who shall seek at all times to standardize this work.

Sec. 6. That no child under the age of sixteen years shall  
2 be employed, permitted or suffered to work in, about or in con-  
3 nection with any gainful occupation except agriculture or domestic  
4 service for more than six days in any one week, nor more than forty-  
5 eight hours in any week, nor more than eight hours in any one  
6 day; nor before the hour of six o'clock in the morning, nor after  
7 the hour of seven o'clock in the evening of any day. Every em-  
8 ployer shall post and keep posted in a conspicuous place in every  
9 room where any child between the ages of fourteen and sixteen  
10 years is employed, permitted or suffered to work, a printed notice  
11 setting forth the maximum number of hours such person may be  
12 required or permitted to work each day of the week, the hours  
13 beginning and ending work each day and the time allowed for  
14 meals; the printed form of such notice shall be furnished by the  
15 state commissioner of labor and the employment of such child for

16 a longer time in any day than so stated or at any time other than  
17 as stated in said printed notice, shall be deemed a violation of the  
18 provisions of this section.

Sec. 7. That it shall be the duty of the state commissioner  
2 of labor, his assistants, factory inspectors, school truancy officers  
3 and accredited agent of the humane society, to enforce the pro-  
4 visions of this act; *provided, however,* that the provisions relating  
5 to the employment of children in mines shall be enforced by the  
6 state department of mines, said department to make complaint  
7 against any person, firm or corporation, violating any of the pro-  
8 visions of this act, and to prosecute the same before any magistrate  
9 or court of competent jurisdiction.

Sec. 8. That any person or agent or representative of any  
2 firm or corporation, who violates any of the provisions of this  
3 act, or any parent, guardian, or custodian of any child who per-  
4 mits or suffers such child to work in violation of any of the pro-  
5 visions of this act, or any superintendent of county or city schools  
6 who illegally issues a work permit to a child, or any person who  
7 furnishes false evidence in reference to the age or birthplace or  
8 educational qualifications of a child, shall for a first offense be  
9 punished by a fine of not less than twenty dollars or more than  
10 fifty dollars; for a second offense by a fine of not less than fifty  
11 dollars or more than two hundred dollars, or by imprisonment  
12 for not more than thirty days or by both such fine or imprison-  
13 ment; for a third or subsequent offense by a fine of not less than  
14 two hundred dollars or by imprisonment for not more than sixty  
15 days or by both such fine and imprisonment.

Sec. 9. That sections twenty-four (insofar as it relates to  
2 the employment of children) twenty-five, seventy-one, seventy-  
3 two, seventy-three, and seventy-four, chapter fifteen-*h* and sec-  
4 tion sixteen-*d* (two) chapter one hundred and forty-four, code  
5 one thousand nine hundred and sixteen, and all acts or part of  
6 acts inconsistent herewith are hereby repealed.

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## House Bill No. 100

AN ACT to amend and re-enact sections twenty-two and twenty-three  
of chapter one hundred and twelve-*a* of the code of West Virginia,  
one thousand nine hundred and thirteen, (being serial sections



four thousand five hundred and eighty-four and four thousand five hundred and eighty-five of said code) and chapter ninety-seven of the acts of one thousand nine hundred and seventeen, fixing the time of holding the regular terms of the circuit court in the twentieth judicial circuit.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There shall be held in each year at least three terms of the circuit court of the two counties of the twentieth judicial circuit, and the terms for each of the said counties shall commence and be held as provided in section two of this act.

Sec. 2. For the county of Greenbrier, on the third Tuesday in January, on the second Tuesday in May, and on the second Tuesday in September, in each year.

For the county of Pocahontas on the first Tuesday in April, on the first Tuesday in June, and on the first Tuesday in October, in each year.

Sec. 3. All acts and parts of act inconsistent with this act are hereby repealed.

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## House Bill No. 151

AN ACT to establish, equip and maintain a demonstration community packing house for the purpose of illustrating and teaching the approved methods of packing apples, peaches and other similar fruit.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There is hereby established a demonstration community packing house to be located in the principal apple growing section of the state, for the purpose of demonstrating the most approved methods of picking, sorting and packing apples, peaches, and similar fruit, and for the purpose of teaching any citizen of West Virginia approved methods of picking, sorting and packing said fruit in barrels, boxes or other containers, and for the purpose of carrying the provisions and purposes of this act into effect a committee is hereby created consisting of the dean of the college of agriculture of West Virginia university, the commissioner of agriculture, the president of the state horticultural society, the chairman of the horticultural committee of

13 the state federation of farm bureau, and horticulturist of the  
14 West Virginia agricultural experiment station. It shall be the  
15 duty of the state board of control to procure a site, erect build-  
16 ings and pre-cooling room, and provide the equipment and neces-  
17 sary space for the aforesaid demonstration. It shall be the duty of  
18 the state board of control when said building and school are pro-  
19 vided and equipped as above stated, to turn it over to the college  
20 of agriculture of the West Virginia university for operation and  
21 the carrying out of the purposes and intents herein set forth.

Sec. 2. Any appropriation hereafter made to carry out the  
2 provisions and purposes of this act shall be expended through the  
3 state board of control.

Sec. 3. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

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## House Bill No. 55

AN ACT to amend and re-enact section ten of chapter one hundred  
and thirty-nine of the code of West Virginia, relating to the  
issue of executions on judgments.

*Be it enacted by the Legislature of West Virginia:*

That section ten of chapter one hundred and thirty-nine of the  
code of West Virginia be and the same is hereby amended and re-  
enacted so as to read as follows:

Section 10. On a judgment, execution may be issued within  
2 ten years after the date thereof. Where execution issues within  
3 ten years as aforesaid, other executions may be issued on such  
4 judgment within ten years from the return day of the last execu-  
5 tion issued thereon, on which there is no return by an officer or  
6 which has been returned unsatisfied. An action, suit or *scire*  
7 *facias* may be brought upon a judgment where there has been a  
8 change of parties by death or otherwise at any time within ten  
9 years next after the date of the judgment; or within ten years  
10 from the return day of the last execution issued thereon on which  
11 there is no return by an officer or which has been returned un-  
12 satisfied. But if such action, suit or *scire facias* be against the  
13 personal representative of a decedent, it shall be brought within  
14 five years from the qualification of such representative.

## House Bill No. 6

AN ACT to amend and re-enact section four of chapter one hundred and fourteen of the code of West Virginia of one thousand nine hundred and thirteen.

*Be it enacted by the Legislature of West Virginia:*

That section four of chapter one hundred and fourteen of the code of West Virginia of one thousand nine hundred and thirteen be, and is, hereby amended and re-enacted so as to read as follows:

### *Records—How Kept.*

Section 4. The proceedings of every court shall be entered in a book and the law orders read in open court by the clerk of the court. The law proceedings of each day shall be drawn up at large and read the next succeeding court day immediately after the court is opened and after being read and corrected where it is necessary shall be signed by the judge or presiding officer before the transaction of any other business, except those of the last day of the term and of the day on which the court may adjourn to a future day as prescribed in chapter one hundred and twelve of the code, which shall be drawn up and read and corrected where it is necessary and signed by the said judge or officer on the same day. The chancery proceedings of each day shall be drawn up at large, and signed by the judge, after being corrected where it is necessary.

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## House Bill No. 52

AN ACT to amend and re-enact sections two, three and four of chapter one hundred and fifty-seven, of the code of West Virginia, relating to grand juries.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three and four of chapter one hundred and fifty-seven of the code of West Virginia, be amended and re-enacted to read as follows:

Section 2. The jury commissioners appointed under the provisions of section three of chapter one hundred and sixteen of the code, shall select and draw persons for grand juries. Said com-

4 missioners shall, at the levy term of the county court each year, and  
5 at any other time when required by the court which appointed  
6 them, or the judge thereof in vacation, prepare a list of not less  
7 than one hundred nor more than two hundred qualified persons of  
8 their county, for grand jury service, chosen from the respective  
9 magisterial districts thereof, as near as may be in proportion to the  
10 population of the districts. The lists so prepared shall be sub-  
11 mitted to the clerk of the court, or the judge thereof when required,  
12 and the name of any person who is not qualified shall be stricken  
13 from the list by the clerk or judge. The persons so listed shall be  
14 men of good moral character, and who have never been convicted  
15 of a felony or of any scandalous offense; and shall be *bona fide*  
16 citizens of the state and county for at least one year immediately  
17 preceding the preparation of the list, and shall not be office holders  
18 under the laws of the United States or of this state.

19-20 At the time such jury list is made up the jury commissioners  
21 shall cause all the names thereon to be written each on a separate  
22 ballot, and shall fold, roll or prepare same so as to resemble each  
23 other as near as may be, and so that the name written thereon shall  
24 not be visible on the outside, and shall enclose the ballots for each  
25 magisterial district in a separate envelope endorsed with the name  
26 of the magisterial district and the number of ballots enclosed, and  
27 shall deposit all the ballots, with the list, in a secure box to be pre-  
28 pared for the purpose, which shall be delivered to and safely kept  
29 by the clerk of the circuit court, and shall be opened only by the  
30 jury commissioners or by order of the judge of the court having  
31 control thereof.

Séc. 3. The clerk of the circuit court or other court requiring  
2 a grand jury shall, at least thirty days before the term of court,  
3 summon the jury commissioners to attend at his office at a day  
4 specified, which shall not be less than twenty days before such  
5 term, and select men for the grand jury, but the court, or judge  
6 thereof, may require said jury commissioners to appear forthwith,  
7 or at any specified time, and select grand jurors for either a regu-  
8 lar or special term of court. On the day appointed the said jury  
9 commissioners shall appear and draw the names of sixteen persons  
10 from the grand jury box, and the persons so drawn shall constitute  
11 the grand jury. If when drawing the ballots it shall appear to the  
12 commissioners that any person so drawn is dead, or for any reason  
13 disqualified or unable to serve, they shall destroy the ballot and  
14 cancel the name on the list and draw another in his stead. They

15 shall enter the names of all persons so drawn in a book kept for  
16 that purpose and deliver a list thereof to the clerk who shall issue  
17 a summons for said grand jurors directed to the sheriff of the coun-  
18 ty requiring him to summon them to appear on the day required  
19 and serve as grand jurors. The provisions of chapter one hun-  
20 dred and sixteen relating to the drawing and summoning of petit  
21 jurors and drawing ballots and cancellation and making thereof,  
22 so far as applicable and not inconsistent with the provisions of this  
23 act, shall be observed and govern the selections of a grand jury, ex-  
24 cept that the ballots shall be drawn from the several envelopes in  
25 proportion as near as may be to the numbers endorsed thereon, but  
26 so that at least one ballot shall be drawn from each envelope.

Sec. 4. Any fifteen or more of the grand jurors attending  
2 shall be a competent grand jury. If a sufficient number of quali-  
3 fied jurors do not attend, the court shall appoint two *bona fide*  
4 citizens of the county, of opposite politics, having all of the quali-  
5 fications of jury commissioners, who, after taking the oath re-  
6 quired of jury commissioners, shall select the number of qualified  
7 persons necessary to complete the grand jury, for which services  
8 the persons so appointed shall be allowed the sum of two dollars  
9 each to be certified by the court to the county court for pay-  
10 ment.

11 All acts or parts of acts inconsistent with this act are hereby  
12 repealed.

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## House Bill No. 57

AN ACT to validate certain proceedings authorizing the issuance of  
bonds of Curry district, Putnam county, for the purpose of locat-  
ing, grading, draining, paving and permanently improving or re-  
pairing the public roads of said district and to validate the sale  
of such bonds and authorize the sale thereof, and to provide a  
tax to pay the same.

*Be it enacted by the Legislature of West Virginia:*

Section 1. All proceedings authorizing the issuance of the  
2 permanent road improvement bonds of Curry district, Putnam  
3 county, in the amount of ninety-five thousand dollars, for the pur-  
4 pose of locating, grading, draining, paving and permanently  
5 improving or repairing the public roads of said district, which

6 bonds mature annually covering a period of thirty years from the  
7 date thereof and bear interest at the rate of five per cent. per  
8 annum, and were authorized by an order of the county court of  
9 said county and received the vote of more than three-fifths of all  
10 the votes cast for and against the same at an election held on  
11 March twenty-fourth, one thousand nine hundred and seventeen,  
12 for that purpose, are hereby in all respects validated and confirmed,  
13 and a tax sufficient to pay the interest and maturing principal  
14 of such bonds shall be levied each year as required by the consti-  
15 tution, anything herein or in any other statute to the contrary not-  
16 withstanding. The sale of such bonds is likewise validated and  
17 confirmed, and the constituted and acting authorities of such  
18 county are hereby authorized to execute and deliver such bonds  
19 pursuant to such proceedings and such sale or pursuant to any  
20 further sale thereof at not less than par.

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## House Bill No. 104

AN ACT to foster the ideals, institutions and government of West Virginia and of the United States, and to prohibit the teaching of doctrines and display of flags antagonistic to the form or spirit of their constitutions and laws.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any person to speak, 2 print, publish or communicate, by language, sign, picture, or 3 otherwise, any teachings, doctrines or counsels in sympathy or 4 favor of ideals, institutions or forms of government hostile, 5 inimical or antagonistic to those now or hereafter existing under 6 the constitution and laws of this state or the United States, or in 7 sympathy or favor of the propriety, duty or necessity of crime, 8 violence or other unlawful methods of terrorism as a means of 9 accomplishing economic or political reform, or in sympathy or 10 favor of the overthrow of organized society, the unlawful de- 11 struction of property or the violation of law.

Sec. 2. It shall be unlawful for any person to have in his 2 possession or to display any red or black flag, or to display any 3 other flag, emblem, device or sign of any nature whatever indi- 4 cating sympathy or support of ideals, institutions or forms of 5 government, hostile, inimical or antagonistic to the form or

6 spirit of the constitution, laws, ideals and institutions of this state  
7 or the United States.

Sec. 3. Any person violating any of the provisions of this  
2 act shall, for the first offense, be guilty of a misdemeanor, and,  
3 upon conviction, shall be fined not less than one hundred nor  
4 more than five hundred dollars, or imprisoned in the county jail  
5 not exceeding twelve months, or both, and, for the second offense,  
6 shall be guilty of a felony, and, upon conviction, shall be confined  
7 in the penitentiary not less than one nor more than five years.

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## House Bill No. 100

AN ACT to amend and re-enact section two of chapter one hundred  
and sixteen of Barnes' code, one thousand nine hundred and  
sixteen, relating to exemptions from jury service.

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter one hundred and sixteen of Barnes' code, one thousand nine hundred and sixteen, be, and the same is hereby amended and re-enacted so as to read as follows:

Section 2. The governor of the state, practicing attorneys,  
2 physicians and dentists, druggists, postmasters, officers of any  
3 court, all telegraph operators actually engaged as such in any  
4 office in this state, and all persons mentioned in the eighth sec-  
5 tion of chapter nineteen of this code as exempted from military  
6 duty (except school commissioners, persons exempted under the  
7 eighth section of chapter nineteen of this code by reason of hav-  
8 ing relatives dependent upon them for support, or in the military  
9 service of the United States or of this state, officers of the militia  
10 who resign their commissions after serving seven years succes-  
11 sively, and officers and members of a uniformed and armed volun-  
12 teer company, who shall have served three years) shall be exemp-  
13 from serving on juries.

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## House Bill No. 111

AN ACT to authorize the board of education of Red Sulphur dis-  
trict of Monroe county to lay an additional levy for the comple-  
tion of a public high school building in said district, already

begun but not fully completed, and to pay off an existing debt thereon, and thereby to enable said board to obtain a clear title therefor.

WHEREAS, The people of Red Sulphur district of Monroe county, prior to January first, one thousand nine hundred and seventeen, voted a levy for the purpose of erecting an eight-room brick high school building therein, which said building was erected, and the funds derived from the levies provided therefor were insufficient to complete the same, and there is lacking for that purpose the sum of two thousand three hundred dollars, and said board is unable to obtain title therefor for that reason, and said board does not lay a levy for school purposes in excess of fifty-five cents on the one hundred dollars valuation on all taxable property therein; therefore,

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of Red Sulphur district 2 of Monroe county is hereby empowered, in addition to all the levies 3 now authorized by law, to lay a special building fund levy not to 4 exceed thirteen cents on the one hundred dollars valuation of tax- 5 able property in said district for the sole purpose of raising suffi- 6 cient funds to pay off and discharge said debt and for fully com- 7 pleting and equipping said high school building; which special 8 levy shall be laid for one year only.

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## House Bill o. 125

AN ACT to amend and re-enact sections six, seven, eight, ten, twelve, seventeen, twenty-four, twenty-five, sixty-three, and one hundred and thirty-two-a of chapter twenty-nine, relating to assessments and taxation.

*Be it enacted by the Legislature of West Virginia:*

1. That sections six, seven, eight, ten, twelve, seventeen, twenty-four, twenty-five, sixty-three, and one hundred and thirty-two-a of chapter twenty-nine of the code, be amended and re-enacted so as to read as follows:

Section 6. Each county in the state shall constitute one assessment district, and shall elect one assessor, whose term of office shall be four years. The assessors now in office shall serve until the expiration of the term for which they were elected, and their successors shall be elected at the general election of one thousand



6 nine hundred and twenty, and every four years thereafter. No  
7 person shall be eligible to the office of assessor who is not a resi-  
8 dent of the county and a freeholder therein at the time of his  
9 election. The county court shall provide the assessor with an office  
10 at the county seat, which shall be kept open during the time the  
11 assessor is listing property. With the consent and approval of  
12 the county court, the assessor may appoint a stenographer to  
13 assist him in the office to serve for the period of not more than  
14 six months in each year. The compensation of such stenographer  
15 shall be paid out of the county treasury and shall not exceed  
16 one hundred dollars per month for the time actually employed.

Sec. 7. In every county whose population, as shown by the  
2 next registration of voters last preceding the election of an as-  
3 sessor, on the basis of a population of five for each voter so regis-  
4 tered, does not exceed twenty thousand, there shall be appointed  
5 two assistant assessors in each county whose population is thus  
6 shown to exceed twenty thousand, and not to exceed thirty  
7 thousand, there shall be appointed three assistant assessors;  
8 in every county whose population is thus shown to exceed  
9 thirty thousand and not to exceed sixty thousand, there shall  
10 be appointed not less than two nor more than four assistant as-  
11 sessors; in every county whose population is thus shown to exceed  
12 sixty thousand, and not to exceed seventy thousand, there shall  
13 be appointed five assistant assessors; and in every county whose  
14 population is thus shown to exceed seventy thousand there shall  
15 be appointed seven assistant assessors. Each of said assistant  
16 assessors shall be a voter and resident of the county in which he is  
17 appointed. The assistant assessors hereinbefore provided shall  
18 devote their whole time to the performance of their duties from  
19 the first day of the assessment year until the levies are extended on  
20 the land and personal property books.

21 There may be appointed in each county one additional as-  
22 sistant to the number hereinbefore provided, to be known as "the  
23 office assistant," who shall have the same power to assess property  
24 as the assessor and other assistants, and shall also stay in the office  
25 of the assessor throughout the year and perform the clerical work  
26 of the office. The salary of such assistant shall be fixed by the  
27 county court and shall not be less than five hundred nor more than  
28 eighteen hundred dollars per annum, payable proportionately at  
29 the end of each month.

Sec. 8. The assistant assessors shall be appointed by the

2 assessor, with the advice and consent of the county court, of the  
3 counties for which they are to be appointed. Not more than two  
4 assistants shall be appointed from any magisterial district. It  
5 shall be the privilege of any assessor in this state to employ his  
6 assistants herein provided for whatever time he and the county court  
7 may deem necessary to have such services or if they so desire for the  
8 full term for which the assessors were elected. They shall take the  
9 same oath of office prescribed for the assessor. Vacancies occurring  
10 from any cause in the office of any assistant assessor, shall be filled  
11 in the same manner provided for the appointment to full terms of  
12 office, and shall be for the unexpired term made vacant.

Sec. 10. The assessor and his assistants in each county shall  
2 receive annually the following compensation to be paid out of the  
3 county fund: Each assessor shall receive annually thirty dollars  
4 for each full one hundred voters voting at the preceding presi-  
5 dential election for President of the United States in his county,  
6 for the first three thousand voters thereof; twenty-five dollars for  
7 each full one hundred additional voters as aforesaid up to three  
8 thousand additional voters as aforesaid; twenty dollars for each  
9 full one hundred additional voters as aforesaid, up to three thou-  
10 sand additional voters as aforesaid; *provided, however,* that the  
11 compensation of any assessor in any county shall in no case be  
12 more than twenty-one hundred nor less than one thousand dollars,  
13 except in those counties in which the population according to the  
14 last preceding census exceeds fifty-five thousand and does not  
15 exceed seventy thousand, the assessor shall be paid a salary not  
16 exceeding twenty-five hundred dollars, and in counties the popu-  
17 lation of which, as aforesaid, exceeds seventy thousand, said as-  
18 sessor shall be paid a salary not exceeding three thousand dollars.  
19 The salary of the assistant assessors shall be fixed by the county  
20 court and shall not be less than one hundred nor more than nine  
21 hundred dollars per year.

Sec. 12. All property, both real and personal, in any county,  
2 whether it be assessed by the assessor, assistant assessor, or by the  
3 board of public works, or any other person or officer or tribunal,  
4 after July first, one thousand nine hundred and nineteen, shall  
5 be assessed as of the first day of April, at its true and actual  
6 value, (that is to say, at the price for which such property would  
7 sell if voluntarily offered for sale by the owner thereof, upon such  
8 terms as such property, the value of which is sought to be ascer-  
9 tained, is usually sold, and not the price which might be realized,

10 if such property were sold at a forced sale). It shall be the duty  
11 of the assessor in each county to assess the value of all real estate  
12 annually in said county as well as the value of all personal prop-  
13 erty therein, at the true and actual value.

Sec. 17. There shall be an annual meeting of the assessors  
2 held during the month preceding the beginning of the assessment  
3 year, at which meeting the assessors of the state shall be required  
4 to attend. The date and place of such meeting shall be fixed by  
5 the state tax commissioner and due notice thereof shall be given  
6 to the assessors of the state. The state tax commissioner shall  
7 prepare a program of matters pertaining to assessments and work  
8 of the assessors to be discussed at said meeting and he shall attend  
9 and be *ex-officio* chairman of the same. The meeting shall con-  
10 tinue for the period of two days. The actual necessary expenses  
11 incurred by any assessor in attendance at such meeting shall be  
12 paid out of the county treasury of the county of the assessor so  
13 attending. Before such payment, however, the assessor shall file  
14 an itemized statement, which shall be sworn to, of his actual and  
15 necessary expenses, with the clerk of the county court.

16 In addition to the meeting hereinbefore provided for, there  
17 shall be at least two meetings of each assessor and his assistants  
18 between the first day of the assessment year and the twentieth  
19 day of June, of the current year, at such time and place as the  
20 assessor shall appoint, of which meeting all of such assistants shall  
21 have due notice, for the purpose of procuring uniform valuation  
22 of property, both real and personal, throughout the entire county,  
23 according to the true and actual value. The last meeting shall be  
24 held after the work of listing property has been completed, at  
25 which meeting all the lists shall be thoroughly gone over and re-  
26 vised and corrected, and if found to be erroneous, either in the  
27 amount of property, real or personal, assessed to any person, firm,  
28 or corporation, or in the value given to any item of property by  
29 the taxpayer by placing on such list the omitted property and  
30 giving to it, as well as any property that has been listed, but which  
31 has been incorrectly valued, the true and actual value thereof ac-  
32 cording to the rule prescribed in section twelve, of this chapter,  
33 and by omitting property improperly listed. The clerk of the  
34 county court shall sit as an advisory member at such last meeting.

Sec. 24. The assessor in making out the land and personal  
2 property books, shall correct any and every mistake he shall dis-

3 cover in the original books, or in the land books for any previous  
4 year.

Sec. 25. When the assessor shall ascertain that any land or  
2 personal property in his county liable to taxation has been  
3 omitted from the land or personal property books for a  
4 period of less than five years, he shall make an entry thereof in  
5 the proper book and of the name of the owner, in the land books  
6 of the year in which said omission was discovered, and of personal  
7 property book for the current year, and assess the same at its true  
8 and actual value according to the rule prescribed in section twelve  
9 of this chapter, and shall charge the same with all taxes charge-  
10 able against it together with interest thereon at the rate of six  
11 per centum per annum for the years the same was omitted from the  
12 books. Any assessor failing to make such entry, when discovered  
13 by him, or called to his attention by any taxpayer interested there-  
14 in, shall forfeit twenty dollars.

Sec. 63. All personal property belonging to persons residing  
2 in this state, whether such property be in or out of the state, and  
3 all personal property in the state, though owned by persons re-  
4 siding out of the state, shall be entered in the personal property  
5 book, and be subject to equal and uniform taxation unless especial-  
6 ly exempted by law; but personal property of all classes, except as  
7 hereinbefore provided, belonging to the residents of this state,  
8 which is actually and permanently located in another state, and  
9 by the laws of such other state is subject to taxation and is actually  
10 taxed in such other state, shall not be entered on the personal  
11 property book, or be taxed in this state. But the shares of capital  
12 stock owned by residents of this state in corporations actually  
13 located in other states, and whose property is taxed by the laws  
14 of such other state, shall not be required to be listed for taxation.  
15 All moneys belonging to citizens of this state, and loaned to any  
16 person or deposited out of the state, shall be subject to taxation the  
17 same as if loaned or deposited in this state. Any person who any  
18 time before the assessment year transfers by loan, deposit or gift,  
19 any moneys, credits, notes, bonds, stocks, certificates of deposit, or  
20 other credits, which are subject to taxation, to any one, who does  
21 not return a list of taxation as of the day on which the assessment  
22 year commences including such property, transfers, loans, deposits  
23 or gifts, if made with the intention of evading taxation, shall be  
24 deemed and treated as illegal and fraudulent and the assessor  
25 shall assess such property for taxation to the party who makes such

26 transfers, loans, deposits or gifts as aforesaid.

Sec. 132-a. Authority is hereby vested in the county court to correct mistakes, clerical errors, and all other errors made by the assessor in the land and personal property books, except the fixing of valuation. Any taxpayer, or the prosecuting attorney or state tax commissioner on behalf of the state, county and districts, claiming to be aggrieved by any entry in the land or personal property books of the county, resulting from a mistake, or clerical error or any error, resulting from any cause other than the value of the property as fixed by the assessor or board of review and equalization, may, within one year from the time such land or personal property books are delivered to the sheriff, apply for relief to the county court of the county in which such books are made out. But before such application is heard, the taxpayer shall give notice to the prosecuting attorney of the county or the state shall give notice to the taxpayer, as the case may be, of such hearing. Such application whether the case be by the taxpayer or the state, shall have precedence of all other business before the court; but any order or judgment made upon such application shall show that either the prosecuting attorney or the state tax commissioner was present defending the interests of the state, county and district. In the event it shall be ascertained that such applicant is entitled to relief as aforesaid and the taxes have been paid, the same shall be refunded to the taxpayer, and if charged and not paid, such applicant shall be released from the payment thereof. And whenever any such is corrected by the county court the clerk of the court shall certify a copy of such order to the auditor, to the sheriff and to the assessor, and, if real estate, said assessor shall thereupon make a correction in his land book for the next year according to such order. Any such order delivered to the sheriff or other collecting officer shall restrain him from collecting so much as is erroneously charged against the taxpayer, and if the same has been already collected, shall compel him to refund the money if such officer has not already paid into the treasury, and in either case, when endorsed by the person exonerated, it shall be sufficient voucher to entitle the officer to a credit for so much in his settlement which he is required to make. If the applicant be the state, then the order so certified to the sheriff shall show the correct amount of taxes due the state, county and districts and shall be sufficient to authorize him to collect such taxes in the same manner as other state, county and district taxes are

41 collected. The provisions of this section shall apply to taxes levied  
42 for the year one thousand nine hundred and eighteen.

43 All acts and parts of acts inconsistent herewith are hereby  
44 repealed.

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## House Bill No. 198

AN ACT fixing the annual allowance to the clerks of the circuit and  
county courts of Morgan county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Morgan county shall an-  
nually allow to the clerk of the circuit court and to the clerk of the  
county court of said county, the sum of not less than two hun-  
dred dollars nor more than six hundred dollars each for his pub-  
lic services, for which no other fee or reward is allowed by law.  
Said salary to begin on the first day of January, one thousand  
nine hundred and nineteen, and end on the thirty-first day of  
December, one thousand nine hundred and twenty, and that this  
act shall in no wise conflict with the salary act of said clerks now  
on the statute books, to begin January one, one thousand nine  
hundred and twenty-one.

All acts or part of acts in conflict herewith are hereby re-  
pealed.

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## House Bill No. 10

AN ACT relating to pure drinking water for live stock in transit.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That all railroads maintaining stations that are  
shipping points for live stock where there are as many as one  
thousand head shipped in any one year, shall wherever practicable  
place within the stock pens owned or controlled by such railroad  
a company suitable watering troughs which shall at all  
times during the time stock is being shipped from the sta-  
tion, be supplied with pure drinking water such as stock will  
drink. It shall be considered practicable where there are water  
works from which there can be water obtained, (city or other-  
wise) by piping not to exceed one-fourth of a mile.

Sec. 2. Any railroad company which refuses to comply with this act shall be guilty of a misdemeanor and shall be fined not less than fifty dollars nor more than one hundred dollars for each offense. And each day that such pens are without water during the shipping season shall be considered a separate offense.

Sec. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

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## House Bill No. 50.

AN ACT to amend and re-enact sections six, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six and sixty-seven of chapter fifteen-h, of the code of West Virginia, of one thousand nine hundred and sixteen, and to add thereto, sections sixty-seven-a, sixty-seven-c, sixty-seven-d, sixty-seven-e and sixty-seven-f, relating to inspection of factories, mercantile establishments, mills or workshops.

*Be it enacted by the Legislature of West Virginia:*

That sections six, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, and sixty-seven of chapter fifteen-h, of the code of West Virginia of one thousand nine hundred and sixteen be amended, and re-enacted, and sections sixty-seven-a, sixty-seven-c, sixty-seven-d, sixty-seven-e, and sixty-seven-f be added thereto, relating to inspection of factories, mercantile establishments, mills or workshops, same to read as follows:

Section 6. All rooms, buildings and places in this state where labor is employed, or shall hereafter be employed, in any factories, mercantile establishments, mills or workshops shall be so constructed, equipped and arranged, operated and conducted, in all respects, as to provide reasonable and adequate protection for the life, health, safety and morals of all persons employed therein. For the carrying into effect of this provision, and the provisions of all the laws of this state, the enforcement of which is now or shall hereafter be intrusted to or imposed upon the bureau of labor, the commissioner of labor shall appoint not more than four factory inspectors who shall be under the supervision of the commissioner of labor. The commissioner of labor may at anytime divide the state into inspection districts as to him may seem advisable, and assign the inspectors to the districts as the good of the service requires. The salary of a factory inspector shall be eighteen hundred

15 dollars per annum, and actual traveling and hotel expenses.  
16 The commissioner of labor shall appoint a chief clerk, whose salary  
17 shall be twenty-four hundred dollars per annum, an as-  
18 sistant clerk who shall be a stenographer, at a salary of  
19 eighteen hundred dollars per annum, and a statistical clerk whose  
20 salary shall be twelve hundred dollars per annum. The  
21 salary of the commissioner of labor provided for in this act, shall  
22 be three thousand six hundred dollars per annum, and he shall be  
23 allowed his actual traveling and incidental expenses.

Sec. 59. All power driven machinery, including all saws,  
2 planers, wood shapers, jointers, sandpaper machines, iron mangles,  
3 emery wheels, ovens, furnaces, forges and rollers of metal; all pro-  
4 jecting set screws or moving parts; all drums, cogs, gearing, belt-  
5 ing, shafting, fly wheels and flying shuttles; all laundry machinery,  
6 mill gearing and machinery of every description; all vats or pans  
7 and all receptacles containing molten metal or hot or corrosive  
8 fluids in any factory, mercantile establishment, mill or workshop,  
9 shall be so located, whenever possible, as not to be dangerous to  
10 employees, or where possible, be properly enclosed, fenced or other-  
11 wise protected. All dangerous places, in or about mercantile estab-  
12 lishments, factories, mills or workshops, near to which any employe  
13 is obliged to pass or to be employed, shall, where practicable, be  
14 properly enclosed, fenced or otherwise guarded. No machine in any  
15 factory, mercantile establishment, mill or workshop, shall be used  
16 when the same is known to be dangerously defective, and no re-  
17 pairs shall be made to the active mechanism or operative part of any  
18 machine, when the machine is in motion.

Sec. 60. No person shall remove or make ineffective, any safe-  
2 guard required by this act, during the active use or operation of the  
3 guarded machine or device, except for the purpose of immediately  
4 making repairs thereto, and all such safeguards so removed shall be  
5 promptly replaced. In every factory, mercantile establishment,  
6 mill or workshop, effective means shall be provided for immediate-  
7 ly disconnecting the power, so that in case of need or accident, any  
8 particular machine, group of machines, room or department, can be  
9 promptly and effectively shut down. Where machines require to be  
10 started and stopped frequently, they shall, wherever practicable, be  
11 provided with tight and loose pulleys, clutch or other effective dis-  
12 engaging device. When provided with tight and loose pulleys, the  
13 shifting of the belt shall be accomplished by the use of a belt shifter,  
14 placed within easy reach of the operator. When a clutch, or other



15 disengaging device is used, an effective means for throwing such  
16 device into or out of engagement shall be provided, and shall be  
17 placed within easy reach of the operator. Where machines are  
18 directly connected with the prime mover, (electric motor, steam,  
19 gas or gasoline engine, or other source of power), a switch, throttle,  
20 or other power controlling device shall be furnished and shall be  
21 placed within easy reach of the operator or his co-worker. Where  
22 machines are arranged in groups, rooms or departments, and power  
23 is supplied by a prime mover, located within the confines of such  
24 group, room or department, a switch, throttle, or other controlling  
25 device shall be furnished, and shall be placed within easy reach of  
26 the operators affected, so that all shafting, transmitting machinery  
27 and machines of such group, room or department, can be simul-  
28 taneously shut down. Where machines are arranged in groups,  
29 rooms or departments, and are supplied by power through the use of  
30 main or line shafts, receiving power from some prime mover, lo-  
31 cated without the group, room or department, the power receiving  
32 wheel or such main or line shaft, shall, wherever possible, be pro-  
33 vided with a friction clutch, or other effective power disengaging  
34 device, with suitable means for operating the clutch, or power dis-  
35 engaging device, and these means shall be placed within the con-  
36 fines of such group, room or department, and within easy reach of  
37 employees or operatives affected, so that all machines, shafting and  
38 other transmission machinery within such group, room or depart-  
39 ment, can be simultaneously shut down. In addition to such safe-  
40 guard, communication, consisting of speaking tubes, electric bells,  
41 electric colored lights, or other approved and effective means, shall  
42 be provided in all cases covered by this paragraph between each such  
43 group, room or department, and the room in which the engineer,  
44 or prime mover, is located, so that in case of need or accident the  
45 motive power of such group, room or department can be promptly  
46 stopped or controlled.

Sec. 61. All hoistways, hatchways, elevator wells and wheel  
2 holes in factories, mercantile establishments, mills or workshops,  
3 shall be securely fenced, enclosed or otherwise safely protected, and  
4 due diligence shall be used to keep all such means of protection  
5 closed, except when it is necessary to have the same open, in order  
6 that the said hatchways, elevators or hoisting apparatus may be  
7 used. All elevator cabs or cars, whether used for freight or pass-  
8 engers, shall be provided with some device, whereby the car or cab  
9 may be held in the event of accident, to the shipper rope or hoisting

10 machinery or controlling apparatus. If any elevator, machine,  
11 electrical apparatus or system of wiring, or any part or parts there-  
12 of, in any factory, mercantile establishment, mill or workshop, are  
13 in an unsafe condition, or are not properly guarded, where reason-  
14 able to guard the same, the owner or lessee or his agent, superin-  
15 tendent or other person in charge thereof, shall, upon notice from  
16 the commissioner of labor or factory inspector, remedy such unsafe  
17 condition within a reasonable time after receiving such notice.

Section 62. No employee shall take or be allowed to take food  
2 into any room or apartment in any factory, mercantile establish-  
3 ment, mill or workshop, where white lead, arsenic, or other poison-  
4 ous substances, or injurious or noxious fumes, dusts or gases under  
5 harmful conditions are present, as the result of the business con-  
6 ducted by such factories, mercantile establishments, mills or work-  
7 shops, and notice to this effect shall be posted in each room or apart-  
8 ment. Employees shall not remain in any such room or apartment  
9 during the time allowed for meals, and suitable provisions shall be  
10 made and maintained by the employer, when practicable, for en-  
11 abling the employees to take their meals elsewhere in such estab-  
12 lishment.

Sec. 63. Every person, firm or corporation employing fe-  
2 males in any factory, mercantile establishment, mill or workshop,  
3 in this state, shall provide a reasonable number of suitable seats  
4 for the use of such female employees, and shall permit the use of  
5 such seats by them when they are not necessarily engaged in active  
6 duties for which they are employed, and shall permit the use of  
7 such seats at all times when such use would not actually and  
8 necessarily interfere with the proper discharge of the duties of such  
9 employees, and where practicable, such seats shall be made a per-  
10 manent fixture and may be so constructed or adjusted that when  
11 seats are not in use, they will not obstruct such female employee  
12 when engaged in the performance of her duties.

Sec. 64. In all factories, mercantile establishments, mills or  
2 workshops, sufficient and reasonable means of escape in case of fire  
3 shall be provided, and such means of escape shall at all times be  
4 kept free from any obstruction and shall be kept in good repair  
5 and ready for use, and shall be plainly marked as such. The com-  
6 missioner of labor or factory inspector may order fire escapes erected  
7 on the outside of buildings used as factories, mercantile establish-  
8 ments, mills or workshops which are two or more stories in height,

9 whenever deemed by the commissioner of labor or factory inspector  
10 to be necessary.

Sec. 65. In all factories, mercantile establishments, mills or  
2 workshops, proper and substantial hand rails shall be provided on  
3 all stairways, and the treads thereon shall be so constructed as to  
4 furnish a firm and safe foothold. A proper light shall be kept  
5 burning by the owner or lessee in all main passageways, main hall-  
6 ways, at all main stairs, main stair landings and shafts, and in front  
7 of all passenger or freight elevators, upon the entrance floors, and  
8 upon other floors, on every workday of the year, from the time that  
9 the building is open for use until the time when it is closed, except  
10 at times when the influx of natural light shall make artificial light  
11 unnecessary. No floor space or any work room in any factory, mer-  
12 cantile establishment, mill or workshop, shall be overloaded with  
13 machinery or other material as thereby to cause serious risk to or  
14 endanger the life or limb of any employee, nor shall there be per-  
15 mitted in any such establishment, a load in excess of the safe su-  
16 staining power of the floors and walls thereof, machines must not be  
17 placed so closely together as to be a serious menace to those that  
18 have to pass between them. Passageways must be of ample width,  
19 well lighted and free from obstruction.

Sec. 66. Every factory, mercantile establishment, mill or  
2 workshop, shall be provided with a sufficient number of water clos-  
3-5 ets, and whenever both male and female persons are  
6 employed, said water closets shall be provided separate and  
7 apart for the use of each sex, and plainly marked by which sex they  
8 are to be used; and no person or persons shall be allowed to use the  
9 closets assigned to the opposite sex; and such water closets shall be  
10 constructed in an approved manner and properly enclosed, and at all  
11 times kept in a clean and sanitary condition. The closets, where  
12 practicable, shall be located so that they shall have direct ventilation  
13 with the outside air; where it is impracticable to locate the closets  
14 so as to have direct ventilation with the outside air, they shall be  
15 placed in an inclosure, and every such closet shall be properly and  
16 effectively disinfected and separately ventilated, and shall be prop-  
17 erly lighted by artificial light, except when the influx of natural  
18 light makes artificial light unnecessary.

Sec. 67. In all factories, mercantile establishments, mills or  
2 workshops, adequate washing facilities shall be provided for the  
3-7 employees, where necessary. When the labor performed by the em-  
8 ployees is of such a character as to make customary or necessary a

9 change of clothing by the employees, there shall be provided sani-  
10 tary and suitable dressing room or rooms, and both such dressing  
11 rooms and washing facilities shall be separately maintained for each  
12 sex.

Sec. 67-a. Every person who shall light a pipe, cigar or cigar-  
2 ette in, or who shall enter with a lighted pipe, cigar or cigarette, any  
3 factory, mercantile establishment, mill or workshop in which is  
4 posted in a conspicuous place over and near each principal entrance  
5 a notice in plain English letters, stating that no smoking is al-  
6 lowed in such building, shall be guilty of a misdemeanor, and  
7 upon conviction thereof shall be fined not less than twenty dollars  
8 nor more than one hundred dollars for each separate offense. The  
9 commissioner of labor or factory inspector shall have authority to  
10 inspect steam boilers in this state and any person owning or operat-  
11 ing steam boilers shall provide the same with steam gauge, safety  
12 valve and water gauge and keep the same in good order. Any  
13 person neglecting so to do, shall be guilty of a misdemeanor and  
14 upon conviction thereof shall be fined not less than twenty nor  
15 more than one hundred dollars.

Sec. 67-c. Whenever any employer of labor shall here-  
2 after discharge his or its employees without first paying them  
3 the amount of any wages or salary then due them in cash, lawful  
4 money of the United States, or its equivalent or by check or draft,  
5 within seventy-two hours after demand, or shall fail or refuse to  
6 pay them in like money, or its equivalent or by check  
6-a or draft, the amount of any wages or salary at the  
7 time the same becomes due and owing to them under their con-  
8 tract of employment, whether employed by the hour, day, week  
9 or month, each of his or its employees so discharged may  
9-a charge and collect wages in the sum agreed upon in the contract  
10 of employment for each day his employer is in default, until he is  
11 paid in full, without rendering any service therefor; *provided, how-*  
12 *ever,* he shall cease to draw such wages or salary thirty days after  
13 such default. Every employee shall have such lien and all other  
14 rights and remedies for the protection and enforcement of such  
15 salary or wages, as he would have been entitled to had he rendered  
16 service therefor in manner as last employed. This section shall  
17 not apply in case of bankruptcy, assignment or other legal dis-  
18 ability of the employer to pay for any wages so due and owing,  
19 or in case of shut down or other cessation of operations.

Sec. 67-d. Any person, firm or corporation who shall, or any

2 agent, manager or superintendent of any person, firm or corpora-  
3 tion, who, for himself or for such person, firm or corporation, shall  
4 violate any of the provisions of this act, or who omits or fails to  
5 comply with any of the foregoing requirements of this act, or who  
6 disregards any notice of the commissioner of labor or state factory  
7 inspector, when said notice is given, in accordance with the pro-  
8 visions of this act; or who obstructs or interferes with any exam-  
9 ination or investigation being made by the commissioner of labor or  
10 a state factory inspector, under this act, or any employee in any  
11 such factory, mercantile establishment, mill or workshop, who shall  
12 remove or interfere with any guard or protective or sanitary de-  
13 vice, required by the provisions of this act, except as hereinbefore  
14 provided, or who shall violate any of the other provisions of this  
15 act, where penalties are not otherwise provided, shall be punished  
16 for the first offense by a fine of not less than ten dollars, nor more  
17 than fifty dollars; and upon conviction of the second or subsequent  
18 offense, shall be fined not less than twenty-five dollars, nor more  
19 than two hundred dollars. A justice of the peace shall have con-  
20 current jurisdiction with the circuit court and other courts having  
21 criminal jurisdiction in his county for the trial of offenses under  
22 this act. Those portions of all coal mining properties and  
23 operations now under the superviston of the department of mines  
24 are excepted from the provisions of this act.

Sec. 67-e. The commissioner of labor, inspectors and chief  
2 clerk shall make and keep full and proper record of all their  
3 expenses, and of inspections and statistics as to conditions, changes  
4 and improvements made for the safety and welfare of employees  
5 affected by this act, and that the commissioner of labor shall sub-  
6 mit a proper report thereof to each biennial session of the legis-  
7 lature.

Sec. 67-f. Sections six, fifty-nine, sixty, sixty-one, sixty-  
2 two, sixty-three, sixty-four, sixty-five, sixty-six, and sixty-seven  
3 of chapter fifteen-h, of the code of West Virginia of one thousand  
4 nine hundred and sixteen be and they are hereby repealed.

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## House Bill No. 54

AN ACT to amend and re-enact section nineteen of chapter one hun-  
dred and fifty-two of Barnes' code of the edition of one thousand  
nine hundred and eighteen.

*Be it enacted by the Legislature of West Virginia:*

That section nineteen of chapter one hundred and fifty-two of Barnes' code, of the edition of one thousand nine hundred and eighteen, be amended so as to read as follows:

Section 19. In any trial or examination in or before any court or officer for a felony or misdemeanor, the accused shall, at his or her own request (but not otherwise) be a competent witness on such trial and examination. The wife or husband of the accused shall, also, at his or her request, where the offense is committed against either the husband or the wife or the child, father, mother, sister or brother of either of them, or upon the request of the accused (but not otherwise) be a competent witness on such trial and examination. But nothing in this section shall be construed as being compulsory upon either husband or wife, and a failure to make such request by either party shall not create any presumption against him or her, nor shall any reference be made to nor comment upon such failure by any one during the progress of the trial in the hearing of the jury.

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## House Bill No. 156

AN ACT to create the department of mines; to re-district the state for the purpose of mine inspection; and to amend and re-enact sections one, two, four, seven and nine of chapter ten of the acts of one thousand nine hundred and fifteen, amending and re-enacting chapter seventy-eight of the acts of one thousand nine hundred and seven.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, four, seven and nine of chapter ten of the acts of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 1. There is hereby created an executive department to be known as the "department of mines" which shall have for its purpose the supervision of the execution and enforcement of all state laws pertaining to the inspection of mines, heretofore and hereafter enacted for the safety of persons employed within or at the mines within this state, and the protection of mine property and other property used and in connection therewith; and the said department of mines shall be in charge of an official to be known

9 as the "chief of the department of mines", who shall have full  
10 charge of said department, and who shall superintend and direct  
11 the inspection of mines as herein provided and as provided by any  
12 other state law not in conflict with this act.

Sec. 2. On or before March first, one thousand nine hun-  
2 dred and nineteen the governor shall, with the consent of the  
3 senate, appoint a chief of the department of mines, who shall  
4 continue in office until December thirty-first, one thousand nine  
5 hundred and twenty-one, or until his successor shall be duly  
6 appointed and qualified, unless sooner removed as provided by  
7 law; and the governor of the state shall, with the consent of the  
8 senate, appoint a chief of the department of mines whose term  
9 of office shall begin January first, one thousand nine hundred  
10 and twenty-two, and shall continue for four years, or until his  
11 successor shall be duly appointed and qualified; and the governor,  
12 with the consent of the senate, shall each four years thereafter  
13 appoint a chief of the department of mines for the term of four  
14 years or until his successor be appointed and qualified.

Sec. 4. The chief of the department of mines shall be a  
2 male citizen of West Virginia, and shall be a competent person,  
3 having had at least eight years' experience in the working, venti-  
4 lation and drainage of coal mines in this state, and having a  
5 practical and scientific knowledge of all noxious and dangerous  
6 gases found in such mines. He shall devote all of his time to the  
7 duties of his office, and shall not be directly or indirectly inter-  
8 ested in a financial way in any coal mine in this state. The sal-  
9 ary of the chief of department of mines shall be five thousand  
10 dollars per annum, and traveling expenses, which shall be paid  
11 monthly out of the state treasury upon requisition upon the state  
12 auditor, properly certified by the chief of department of mines.

Sec. 7. As soon as practicable after this act becomes a law,  
2 the chief of the department of mines, by and with the approval  
3 of the governor, shall divide the state into nineteen mining dis-  
4 tricts, in such manner as to equalize as far as practicable the work  
5 of each inspector the chief of the department of mines shall ap-  
5-a point one inspector for each mining district within the state,  
6 whose term of office shall expire the thirty-first day of December,  
7 one thousand nine hundred and twenty-one, unless sooner removed  
8 as provided by law; and he shall direct and prescribe in which of  
9 the said districts each of the said inspectors shall serve. After  
10 December thirty-first, one thousand nine hundred and twenty-one,

11 appointments of all inspectors shall be for a term of four years,  
12 except those appointments made to fill out unexpired terms.

Sec. 9. Every person appointed to the office of district mine  
2 inspector shall be a citizen of West Virginia, having a practical  
3 knowledge of mining and the proper ventilation and drainage of  
4 mines, and a knowledge of the gases met with in coal mines, and  
5 must be a miner of at least six years' experience in coal mines,  
6 or having otherwise been engaged as an employee for six years  
7 within coal mines, and he shall not while in office be interested as  
8 owner, operator, stockholder, superintendent, or engineer of any  
9 coal mine, and he shall be of good moral character and temperate  
10 habits. His term of office shall expire on December thirty-first,  
11 one thousand nine hundred and twenty-one, or when his suc-  
12 cessor is appointed and qualified, unless sooner removed as pro-  
13 vided by law. An inspector of mines shall be removed from office  
14 by the chief of department of mines for incompetency, neglect of  
15 duty, drunkenness, malfeasance, or for other good cause. The  
16 salary of each district mine inspector shall be three thousand dol-  
17 lars per annum, and actual traveling expenses; such salary and ex-  
18 penses shall be paid monthly out of the state treasury upon ap-  
19 proval of the chief of department of mines; *provided*, that before  
20 payment of such expense shall be made to the inspector he shall  
21 file an account of such expense, verified by his affidavit, showing  
22 they accrued in the discharge of his official duties.

23 All acts and parts of acts inconsistent with the provisions of  
24 this act are hereby repealed.

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## House Bill No. 107

AN ACT to amend and re-enact chapter thirty-nine of the acts of  
one thousand eight hundred and eighty-seven of the legislature  
of West Virginia, creating the "Independent School District of  
Point Pleasant," and to change and enlarge the boundary and  
limits of said independent school district so as to include addi-  
tional territory.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-nine of the acts of one thousand eight hun-  
dred and eighty-seven of the legislature of West Virginia creating  
the independent school district of Point Pleasant and any amend-



ments thereto be amended and re-enacted so as to change and enlarge the boundary limits of said independent school district of Point Pleasant created by chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven to read as follows:

Section 1. That in case a majority of the voters voting on the question at the election herein provided for, be in favor thereof, the following described territory in the county of Mason shall after the result of such election is ascertained and declared, be added to and become a part of the independent school district of Point Pleasant, to-wit:

All that territory bounded and described as follows:

Beginning at a point on the Kanawha river where a stake is called for, being a corner of the lands formerly owned by C. C. Miller, who is now deceased, and the lands of the Kanawha and Michigan railway company, thence with the division line between said Miller lands and the railway company lands, north twenty-nine degrees forty-five minutes, east two hundred four poles and twenty-two links to a stake; thence by same course fifty-five poles and four links to a corner of the said Miller lands, the lands of the Kanawha and Michigan railway company and the lands formerly owned by J. D. McCulloch; thence north fifty-eight degrees west; two hundred ninety-seven poles to a stake on the south side of the Clarksburg road; thence crossing the lands formerly belonging to H. J. Fisher, north seventy degrees west ninety poles and twelve links to a stake on the south side of a road; thence north thirty-seven degrees thirty minutes west, thirty-seven poles to a large cedar tree on a hill side; thence north twenty degrees fifteen minutes, one hundred twenty-one poles at a chestnut oak on a hill side; thence north twenty-eight degrees thirty minutes east, one hundred thirty-four poles and eleven links to a small black oak on the top of a ridge on the lands of P. S. Eastham; thence north seventy-three degrees thirty minutes west, to the west bank of Crooked creek; thence along the west bank of Crooked creek with its meanderings and bindings thereon, north thirty-five degrees east four poles; north seventy-one degrees thirty minutes east, sixteen poles; north twenty-three degrees twenty poles; north twenty-two degrees east, twelve poles; north sixty-seven degrees forty-five minutes east, twelve poles; south eighty-four degrees fifteen minutes east, seventeen poles; north forty-two degrees thirty minutes east, twelve poles; north two degrees

37 east, eight poles to the division line between the lands of P. C.  
38 Eastham and James Capehart; thence across the lands of James  
39 Capehart north five degrees east, four poles; north twenty-four  
40 degrees thirty minutes east, ten poles; north twenty-four degrees  
41 thirty minutes west, nine poles; north thirty-three degrees thirty  
42 minutes east, twenty-five poles; north fifty-six degrees thirty-two  
43 minutes east, thirty-two poles; north six degrees east, sixteen  
44 poles; north thirty-three degrees thirty minutes east, twenty-two  
45 poles to a point on south side of Jerico road, same being corner  
46 to lands of E. J. Mossman; thence with the lines of said E. J.  
47 Mossman south thirty-seven degrees west ten poles to a stake in  
48 center of road; north eighty-one degrees thirty minutes west, four  
49 poles ten and one-half links to a point in center of Jerico road;  
50 thence leaving said Jerico road north eight degrees east thirty-  
51 two poles nineteen links to a post set in the ground on the fifteenth  
52 day of July, one thousand nine hundred and four; thence south  
53 eighty-two degrees east twenty-five poles to a stake on top of creek  
54 bank; thence along top of creek bank north twenty-seven degrees  
55 fifteen minutes east, twenty poles to a stake; thence north thirty-  
56 five degrees east ten poles ten links to a stake in bend of the fence;  
57 thence north fourteen degrees thirty minutes east, thirty-eight  
58 poles ten links to a stake in out line of thirty-six acre tract known  
59 as lot number one in Point Pleasant development company's sur-  
60 vey; thence with said lot number one north eighty-two degrees west  
61 nine poles fifteen links to a stake; thence north forty-one degrees  
62 west eleven poles eight links to a stake at the north east corner of  
63 fair ground; thence along the north line of said fair grounds north  
64 eighty-two degrees west, nine poles to a stake; thence north six  
65 degrees east, sixty-one poles eleven links to a stake; thence south  
66 thirty degrees east, seven and one-half poles to a fence post in  
67 southeast corner of cemetery lot; thence along the south line of  
68 cemetery lot north seventy-five degrees forty-five minutes west  
69 forty-eight poles to the east line of Jackson avenue as laid out by  
70 the Point Pleasant development company; thence along the east  
71 line of Jackson avenue north nine degrees east, thirty-four poles  
72 twelve links to a stake in the outline of the Point Pleasant de-  
73 velopment company's lands and with said outline and line of land  
74 of Mrs. Ham Parr north seventy-six degrees west one hundred  
75 seventy-one poles to a stake in the south bank of Old Town creek;  
76 thence along the south bank of said Old Town creek with its

77 meandors and binding thereon, south thirty-five degrees west, six-  
78 teen poles four links; north forty-seven degrees fifteen minutes  
79 west, six poles, north twenty-eight degrees forty-five minutes west,  
80 eight poles; north seventy-five degrees west, five and one-half  
81 poles; south three degrees thirty minutes three poles four links;  
82 south twenty-eight degrees east, six poles twenty links; south  
83 twenty degrees east, five poles; south twelve degrees west, six poles  
84 nine links; south eight degrees west, seven poles seven links;  
85 north eighty-one degrees thirty minutes west, four poles twenty-  
86 two links; south forty-four degrees forty-five minutes west, thir-  
87 teen poles twenty-three links to the top of the Ohio river bank;  
88 thence north seventy-three degrees thirty minutes west, to the  
89 Ohio and West Virginia state line; thence with said state line  
90 down the Ohio river to a point opposite the center of the Kana-  
91 wha river; thence crossing the Ohio river and in a line with the  
92 center of the Kanawha river, and continuing said course up the  
93 center of said Kanawha river five hundred three poles to a point  
94 opposite the beginning corner, thence north twenty-nine degrees  
95 forty-five minutes east, three hundred twenty-five feet to the place  
96 of beginning. The same being the metes and bounds of the city  
97 of Point Pleasant.

98 *Provided, however,* that before this act shall take effect as  
99 to the territory included in the said independent school district of  
100 Point Pleasant, as existing before this act went into effect, it  
101 shall be submitted to the voters of the independent school dis-  
102 trict of Point Pleasant at a special election to be held in said  
103 independent district under the direction of the board of educa-  
104 tion thereof, to be held on the twelfth day of April, one thou-  
105 sand nine hundred and nineteen, and before the same shall take  
106 effect as to any part of the magisterial district of Lewis pro-  
107 posed to be included in said independent school district of Point  
108 Pleasant from said district of Lewis, it shall be submitted to  
109 the voters of the said magisterial district of Lewis at a special  
110 election to be held in said district under the direction of the  
111 board of education thereof, to be held on the twelfth day of  
112 April, one thousand nine hundred and nineteen.

Sec. 2. The tickets for the said election herein provided for  
2 shall have written or printed thereon "For enlarging independent  
3 school district" and "Against enlarging independent school dis-  
4 trict." The said election shall be held and conducted and the

5 result thereof, in each of said districts, ascertained by officers to  
6 be appointed for the purpose in each of said districts by the  
7 boards of education thereof, respectively, conforming to the gen-  
8 eral law governing elections so far as applicable, and if the ma-  
9 jority of the votes cast upon said question in each of the said dis-  
10 tricts shall be in favor of enlarging said independent school dis-  
11 tricts of Point Pleasant then the territory described in section  
12 one of this act shall thereafter be included within the independent  
13 school districts of Point Pleasant. If, however, the majority of  
14 votes cast upon said question in either of said districts shall be  
15 against enlarging said independent school district of Point Pleas-  
16 ant, or if the vote be even, then the boundary limits of said in-  
17 dependent school district shall be and remain as they were before  
18 this act went into effect.

Sec. 3. In the independent school district of Point Pleasant  
2 there shall be a board of education, who shall be a corporation by  
3 the name of "The Board of Education of the independent school  
4 district of Point Pleasant, in the county of Mason," and as such  
5 shall possess all the power and be subject to all the liabilities of  
6 such corporation, and in addition thereto shall likewise perform  
7 all the duties and be subject to all the liabilities of both boards of  
8 education and trustees. Except as in the next section otherwise  
9 provided, said board of education shall consist of a president and  
10 two commissioners, to be elected at the general elections held in  
11 said county of Mason, all of whom, after those first elected, shall  
12 hold their offices for terms of four years, beginning on the first  
13 day of July, next after the dates of their respective elections, and  
14 until their successors shall have been elected and qualified. They  
15 shall be first elected at the general election to be held as aforesaid  
16 in the year nineteen hundred and twenty, the president and one of  
17 said commissioners for terms of two years, commencing as afore-  
18 said, and the other commisioner for the full term of four years.

Sec. 4. The independent school district of Point Pleasant  
2 herein authorized, and the board of education herein authorized  
3 to be elected, shall conform to, and be governed by, the general  
4 school law in this state, except where it is otherwise provided by  
5 this act. But until the board of education is elected as provided  
6 in the next preceding section, the present members of the board  
7 of education of the independent school district of Point Pleasant,  
8 and the members of the board of education of Lewis district re-

9 siding within the territory included in this act shall be and is  
10 hereby constituted the board of education of the independent  
11 school district of Point Pleasant as created by this act until their  
12 successors are elected and qualified, as aforesaid. The members  
13 of the temporary board of education so constituted shall on the first  
14 Monday in July, 1919, meet and elect one of their members presi-  
15 dent of said board. Nothing herein contained shall be construed  
16 to prohibit the re-election and eligibility of any member of such  
17 board for two or more terms. Vacancies in the board shall be  
18 filled for the unexpired term by appointment by said board within  
19 four weeks after such vacancy shall have occurred. If the board  
20 shall fail or refuse to act within this time, the county superintend-  
21 ent of schools shall promptly fill said vacancy by appointment.

Sec. 5. All school moneys, whether belonging to the teach-  
2 ers' or building fund of Lewis district, which may be unexpended  
3 when the provisions of this act take effect, shall be divided be-  
4 tween the said Lewis district and the independent school district  
5 of Point Pleasant, in proportion to the amount of taxable prop-  
6 erty added to the independent school district of Point Pleasant.  
7 The latest assessment for state and county purpose shall be taken  
8 as the basis of such settlement and division. It shall be the duty  
9 of the boards of education of each of said districts, on or before  
10 the first day of July, next after the provisions of this act take  
11 effect, to make the financial settlement provided for in this sec-  
12 tion.

Sec. 6. The said board of education, at their annual meet-  
2 ing on the first Monday of July of each year, shall appoint a sec-  
3 retary who shall not be a member of the board, and who shall  
4 perform all the duties of a secretary of a board of education pre-  
5 scribed in the general school law, and in addition thereto, shall  
6 make an enumeration of the youths of the said independent dis-  
7 trict, between the ages of six and twenty-one years of age, at the  
8 time required by the general school law, and according to the  
9 provision therein contained in relation to the making enumera-  
10 tion of youths. Salary of said secretary shall not exceed one  
11 hundred and fifty dollars per year.

Sec. 7. It shall be the duty of the board of education of said  
2 independent district at their annual meeting, to be held at the  
3 time required by the general school law, to ascertain, as near as  
4 can be, the amount of money necessary, in addition to other funds

5 properly belonging to said independent district available for that  
6 year, to keep the schools of said districts in operation not less than  
7 nine months in the year, for which amount said board shall levy  
8 a tax upon the taxable property included in said district, which  
9 tax shall be collected in the same manner as other school taxes  
10 are collected, under the provisions of the general school law of  
11 this state; and for collecting the same the sheriff shall be allowed  
12 the same commission as he is allowed by law for collecting the  
13 school money for the districts.

Sec. 8. The board of education of said independent school  
2 district shall establish and maintain a first class high school,  
3 within the meaning of division (b) of section thirty of chapter  
4 forty-five of the code of West Virginia in which no person, ex-  
5 cept a thoroughly qualified high school teacher holding a degree  
6 from a college at least equal to West Virginia university in its  
7 curriculum and standing, shall be employed or permitted to teach  
8 any of the branches regularly prescribed for first-class high schools  
9 provided for in said division (b) the requirements of this section,  
10 as to such high school, may be enforced by any taxpayer  
11 of said independent district by mandamus to compel  
12 performances of official duty thereunder, or injunction to  
13 prevent violation thereof. In addition to said high school,  
14 said board of education may establish and maintain such  
15 other schools as shall, in their judgment, promote the edu-  
16-17 cational interests of children of said independent school  
18 district. Pupils between the ages of six and twenty-one years,  
19 residing elsewhere than in said independent district may be ad-  
20 mitted to said schools upon payment to said board of education,  
21 in advance, of a reasonable monthly tuition, to be fixed by said  
22 board, and to become a part of the teachers' fund of said inde-  
23 pendent district. Said board of education shall, at a meeting to  
24 be held not later than the first day of September, in each year,  
25 appoint the teachers for said schools for the current school year,  
26 and fix and determine their salaries for such year. Such appoint-  
27 ments shall be recorded by the secretary of said board; and any  
28 teacher appointed by said board may, by them, be removed for  
29 incompetency, neglect of duty, intemperance, profanity, cruelty  
30 and immorality.

# House Bill No. 93

AN ACT to regulate the sale of commercial feeding stuffs.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and milo; whole hays, straws, cotton seed hulls and corn stover when unmixed with other materials, together with all other materials containing sixty per cent, or more of water.

Sec. 2. Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within the state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade mark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum per centum of crude protein;
- (e) The minimum per centum of crude fat;
- (f) The maximum per centum of crude fiber;
- (g) The specific name of each ingredient used in its manufacture.

The crude protein, crude fat and crude fiber shall be determined by the methods in force at the time by the association of official agricultural chemists of the United States.

Sec. 3. Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs, he or they shall file with the commissioner of agriculture a certified copy of the statement specified in section two for each brand of commercial feeding stuffs; said certified copy to be accompanied when the commissioner of agriculture shall so request by a sealed package containing at least one pound of the commercial feeding stuffs to be sold, offered or exposed for sale, or distributed in this state; and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative of the com-

12 merical feeding stuffs offered for registration. Tankage, meat  
13 meal or meat scraps cannot be sold in this state through dealers,  
14 or otherwise, except under the regulation of government inspec-  
15 tion of tankage, meat meal or meat scraps, and that each con-  
16 tainer shall have a prescribed label from the bureau of animal  
17 industry in compliance with the act of congress of June thirtieth,  
18 one thousand nine hundred and six.

Sec. 4. Each and every manufacturer, importer, jobber,  
2 firm, association, corporation or person manufacturing or selling  
3 any commercial feeding stuffs as defined in section one of this  
4 act, shall pay to the commissioner of agriculture an inspection  
5 tax or fee of twenty-five cents per ton for each ton of commercial  
6 feeding stuffs sold, offered or exposed for sale or distributed in  
7 this state, and shall affix to or accompany each lot shipped in bulk,  
8 and to each parcel of such commercial feeding stuffs, stamp or label  
9 to be furnished by the commissioner of agriculture, stating that  
10 all charges specified in this section have been paid. Whenever any  
11 commercial feeding stuffs as defined in section one is offered or  
12 exposed for sale in bulk or otherwise stored, the manufacturer, im-  
13 porter, jobber, firm, association, corporation or person keeping the  
14 same for sale shall keep on hand cards upon which shall be printed  
15 the statement required by the provisions of section two, and when  
16 such feeding stuffs is sold at retail in bulk or in packages belong-  
17 ing to the purchaser, the manufacturer, jobber, firm, association,  
18 corporation or person shall furnish the purchaser with sufficient  
19 tax tags or stamps to cover the sale, and, upon request, with a card  
20 or cards upon which appears the statement required by the pro-  
21 visions of section two.

Sec. 5. The commissioner of agriculture shall have power to  
2 refuse to register any commercial feeding stuffs under a name,  
3 brand or trade mark which would be misleading or deceptive or  
4 which would tend to mislead or deceive as to the materials of  
5 which it is composed, or when the specific name of each and all  
6 ingredients used in its manufacture are not stated. He shall also  
7 have the power to refuse to register more than one commercial  
8 feeding stuffs under the same name or brand when offered by the  
9 same manufacturer, jobber, importer, firm, association, corpora-  
10 tion or person. Should any commercial feeding stuffs be regis-  
11 tered in this state, and it is afterward discovered that such regis-  
12 tration is in violation of any of the provisions of this act, the  
13 commissioner of agriculture shall have the power to cancel such



14 registration. The commissioner of agriculture shall have the  
15 power to refuse to allow any manufacturer, importer, jobber, firm,  
16 association, corporation or person to lower the guaranteed analy-  
17 sis or change the ingredients of any brand of his or their com-  
18 mercial feeding stuffs during the term for which registered unless  
19 satisfactory reasons are presented for making such change or  
20 changes.

Sec. 6. Whenever a manufacturer, importer, jobber, firm,  
2 association, corporation or person manufacturing or selling a brand  
3 of commercial feeding stuffs shall have filed the statement required  
4 by section three and paid the inspection tax or fee, as required by  
5 section four of this act, no other agent, importer, jobber, firm, as-  
6 sociation, corporation or person shall be required to file such state-  
7 ment or pay such tax or fee upon such brand.

Sec. 7. The commissioner of agriculture is authorized in  
2 person, or by deputy, to have free access to all places of business,  
3 mills, buildings, carriages, cars, vessels, and parcels of whatsoever  
4 kind used in the manufacture, transportation, importation, sale or  
5 storage of any commercial feeding stuffs, and shall have the power  
6 and authority to open any parcel containing or supposed to con-  
7 tain any commercial feeding stuffs; and upon tender and full pay-  
8 ment of the selling price, to take therefrom samples for analysis.  
9 And said commissioner shall annually cause to be analyzed at least  
10 one sample of every commercial feeding stuffs that is found, sold,  
11 offered or exposed for sale, or distributed in this state. The meth-  
12 ods of analysis shall be those in force at the time by the association  
13 of official agricultural chemists of the United States. The said  
14 commissioner shall publish annually in pamphlet or bulletin form,  
15 the result of all analyses and other examinations required by this  
16 section, for the guidance of purchasers of commercial feeding stuffs  
17 in this state.

Sec. 8. If it appears that any of the provisions of this act  
2 have been violated, the commissioner of agriculture shall certify  
3 the facts to the proper prosecuting attorney, and furnish that offi-  
4 cer with a copy of the results of the analysis or other examination  
5 of such feeding stuffs, duly authenticated by the analyst or other  
6 officer making the determination under the oath of such officer;  
7 *provided*, that if it shall appear from any such examination that  
8 any of the provisions of this act have been violated, the said com-  
9 missioner shall cause notice to be given to the manufacturer or  
10 dealer from whom said sample was taken. Any party so notified,

11 shall be given an opportunity to be heard in his defense under  
12 such rules and regulations as may be prescribed by the commis-  
13 sioner of agriculture, before the facts shall be certified to the  
14 proper prosecuting attorney. In all prosecutions arising under  
15 the provisions of this act, certificates of the analyst or other officer  
16 making the examination or analysis, when duly sworn to by such  
17 officer, shall be *prima facie* evidence of the fact or facts therein  
18 certified.

Sec. 9. Any manufacturer, importer, jobber, firm, associ-  
2 ation, corporation or persons who shall sell, offer or expose for sale,  
3 or distribute in this state, any commercial feeding stuffs without  
4 having attached thereto or furnished therewith such tax stamps,  
5 labels or tags, as required by this act, or who shall use the re-  
6 quired tax stamps, labels or tags, or who shall impede, obstruct,  
7 hinder, or otherwise prevent or attempt to prevent said commis-  
8 sioner or his authorized agent in the performance of his duty in  
9 connection with the provisions of this act, or who shall sell, offer  
10 or expose for sale or distribute in this state any commercial feed-  
11 ing stuffs as defined in section one without complying with the  
12 requirements of the provisions of this act; or who shall sell, offer,  
13 or expose for sale or distribute in this state any commercial feed-  
14 ing stuffs which contains a small percentum of crude protein or  
15 crude fat, or a larger percentum of crude fiber than is certified  
16 to be contained therein, or who shall fail to properly state the  
17 specific name of each and every ingredient used in its manufac-  
18 ture, shall be deemed guilty of a violation of the provisions of  
19 this act and upon conviction thereof shall be fined not more than  
20 one hundred dollars for the first violation, and not less than one

Sec. 10. The commissioner of agriculture is hereby em-  
21 hundred dollars for each subsequent violation.

2 powered to enforce the provisions of this act, and to prescribe the  
3 form of tags, stamps or labels to be used to show that the in-  
4 spection tax or fee has been paid; and to prescribe and enforce  
5 such rules as he may deem necessary to carry into effect the full  
6 intent and meaning of this act.

Sec. 11. The commissioner of agriculture shall pay prompt-  
2 ly into the treasury of the state all money received by him on ac-  
3 count of this act and shall draw upon the same to meet all legiti-  
4 mate expenses incurred in the enforcement of this act, and any  
5 moneys remaining after all expenses have been paid shall be ex-  
6 pended by the said commissioner. Any moneys received under

7 this act, remaining after said expenses have been paid, shall be  
8 used by the commissioner for carrying on co-operative work with  
9 the United States bureau of animal industry for the eradication  
10 of tuberculosis among cattle in this state and such moneys re-  
11 maining as aforesaid are hereby appropriated to the use of said  
12 purposes. Said expenses shall not exceed fifteen thousand dollars  
13 in any one fiscal year.

Sec. 12. *Provided*, that any commercial feeding stuffs, manu-  
2 factured and prepared from pure grain at any mill in this state  
3 and sold by the manufacturer thereof, shall not be required to be  
4 registered and tagged.

Sec. 12-a. All laws or parts of laws in conflict with the pro-  
2 visions of this act are hereby repealed.

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## House Bill No. 184

AN ACT to amend and re-enact chapter one hundred and thirteen, of  
the acts of one thousand nine hundred and fifteen, authorizing  
and empowering the county court of Lewis county to lay  
a special levy each year for the purpose of permanently  
to lay a special levy each year for the purpose of permanently  
improving certain public roads or turnpikes leading out of the  
city of Weston in said county; providing for such permanent im-  
provements and the receipt and expenditures of all moneys raised  
by such levy, and to exempt any magisterial district of said  
county that may issue bonds for permanent road purposes in  
said county from the provisions of said special levy, as amended  
and re-enacted by chapter thirty-five, of the acts of one thousand  
nine hundred and seventeen.

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred and thirteen, of the acts of one thou-  
sand nine hundred and fifteen, as amended by chapter thirty-five,  
of the acts of one thousand nine hundred and seventeen, be amended  
and re-enacted so as to read as follows:

Section 1. That the county court of Lewis county is hereby  
2 authorized and empowered to lay a levy each year, in addition to  
3 all other levies allowed by law, not exceeding twenty-five cents on  
4 each one hundred dollars of valuation on the taxable property of  
5 the county for the year the levy is laid, to be called a special road

6 levy, for the purpose of permanently improving the five public  
7 roads leading out of the city of Weston, and more particularly  
8 described as the Staunton and Parkersburg turnpike, sometimes  
9 called Beverly and Glenville turnpike, the Weston and Beverly  
10 turnpike, sometimes called the Weston and Buchannon turnpike;  
11 the Weston and Sutton turnpike; the Weston and Clarksburg  
12 turnpike; and what is known as the down the river road, starting  
13 at the point on the corporate line of the city of Weston, on the  
14 west side of the Baltimore and Ohio railroad company's tracks  
15 at or near the concrete bridge across Polk creek near Springs  
16 Lumber company and running thence by way of Mid avenue or  
17 Main street, Shady Brook to the Harrison county line at the A. W.  
18 Rhoades near the mouth of Kincheloe creek.

19 It is *provided, however*, that if the voters of any magisterial  
20 district should petition the county court to submit a bond issue  
21 to permanently improve such parts of said turnpikes and roads as  
22 traverses that magisterial district, the county court shall submit, in  
23 the manner prescribed by law, to the voters of that magisterial  
24 district, for their ratification or rejection, a bond issue, and  
25 magisterial district voting bonds for the permanent improvements  
26 of the said roads or turnpikes, shall be thereby exempted from  
27 the operation of the special levy for permanent road purposes  
28 under the provisions of this act.

Sec. 2. Said roads and turnpikes shall be permanently im-  
2 proved by said county court of Lewis county, in such manner  
3 as it shall decide and shall be so permanently improved under the  
4 direction, authority and supervision of said county court in such  
5 a way and manner as to fully carry out the provisions of sections  
6 one of this act; and said county court shall make such changes in  
7 the location of said roads and turnpikes as may be necessary to  
8 improve the grades and curves and to carry out the provisions of  
9 this act; and all moneys realized from such special levy shall be  
10 placed in a separate fund apart from all other funds, and a sepa-  
11 rate account shall be kept by said court of the receipt and expendi-  
12 tures of the same, setting forth clearly the sum received by reason  
13 of said levy and the manner in which the same has been expended.

Sec. 3. The fund arising from such road levy shall be used  
2 for the purposes herein designated and to carry out the provisions  
3 of this act and no other.

## House Bill No. 145

AN ACT to amend and re-enact section twenty of chapter one, of the acts of the legislature of West Virginia of one thousand nine hundred and eight.

*Be it enacted by the Legislature of West Virginia:*

That section twenty of chapter one of the acts of the legislature of West Virginia, of one thousand nine hundred and eight be amended and re-enacted so as to read as follows:

Section 20. The levy so ordered shall be a special levy of 2 not more than two dollars on each dog running at large in said 3 city and a tax upon real and personal property therein subject to 4 state, county and municipal taxes, upon the basis of the valuation 5 of said property as provided for in said chapter one, and the taxes 6 so levied upon said property to be raised for all municipal pur- 7 poses for the next fiscal year, and one additional year thereafter, 8 not to exceed sixty cents, on each one hundred dollars. All acts 9 and parts of acts inconsistent with this act are hereby repealed.

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## House Bill No. 200

(House Bill No. 200—Mr. Anderson.)

AN ACT to provide for the creation and organization of corporations, other than joint stock companies, for the purposes named in clause four of section two of chapter fifty-four of the code of West Virginia, and to provide for the management and control of such corporations.

*Be it enacted by the Legislature of West Virginia:*

Section 1. When any number of persons, not fewer than 2 five, desire to form a corporation, not a joint stock company, for 3 any of the purposes mentioned in clause four of section two of 4 chapter fifty-four of the code of West Virginia, they may do so 5 in the manner provided by said chapter fifty-four in so far as 6 the same is applicable, except as herein modified.

Sec. 2. In lieu of the matters required to be set forth in the 2 agreement of incorporation by clause four of section six of said 3 chapter fifty-four, the agreement shall state, this corporation 4 shall have no capital stock, and in lieu of the matters required to

5 be set forth in the agreement of incorporation by clause five of  
6 said section six, the agreement of incorporation shall state the  
7 names and post office addresses of the incorporators. In addition  
8 to the matters which may be set forth under clause seven of said  
9 section six as it now exists, the agreement of incorporation shall  
10 provide for the election or appointment of trustees to manage the  
11 corporation, and may vest the power of election or appointment of  
12 such trustees in any body of persons organized as a conference,  
13 association, presbytery, or such other organization of whatever  
14 name, and may specify the number of trustees and provide for  
15 their tenure of office.

Sec. 3. The governing power of such corporations shall be  
2 vested in a board of trustees, and such board shall be vested with  
3 all powers which are or may be vested in the stockholders and  
4 directors of joint stock companies under the laws of the state of  
5 West Virginia, except as herein differently provided and except  
6 as limited by the agreement and certificate of incorporation and  
7 by-laws adopted for the government of the corporation. The  
8 original incorporators shall form the board of trustees until their  
9 successors are elected, but their number may be added to in the  
10 manner provided for the election or appointment of trustees.

Sec. 4. The trustees of such corporation shall organize with-  
2 in the time provided by law for the organization of joint stock  
3 companies by electing one of their number president and another  
4 of their number vice-president and by the election of a secretary,  
5 whose official titles shall be president of the board of trustees,  
6 vice-president of the board of trustees and secretary of the board  
7 of trustees, respectively. They shall adopt by-laws providing for  
8 such other officers, agents and employees as may be desirable, and  
9 prescribe the powers and duties of all officers, agents and em-  
10 ployees. If the agreement and certificate of incorporation do not  
11 prescribe the number of trustees and their tenure of office, then  
12 the by-laws shall provide for same.

Sec. 5. When any board of trustees holding title to property,  
2 whether real or personal or both, for any university, college,  
3 seminary, high school or other institution of learning under the  
4 provisions of chapter fifty-seven of the code of West Virginia,  
5 shall deem that the interest of such institution of learning will  
6 be promoted by a transfer of the property so held by them to a  
7 corporation organized under the provisions hereof, they may do

8 so by obtaining permission from the proper court under the pro-  
9 visions of section nine of chapter fifty-seven of the code of West  
10 Virginia.

Sec. 6. The provisions of chapters fifty-two, fifty-three and  
2 fifty-four of the code of West Virginia in so far as they are not  
3 incnsistent with the provisions hereof and in so far as they may  
4 be applicable shall be held to apply to corporations organized  
5 under the provisions of this act, and this act shall not be construed  
6 to prevent the creation of joint stock companies for the purposes  
7 set forth in clause four of section two of said chapter fifty-four  
8 of the code.

Sec. 7. All references to the code of West Virginia herein  
2 shall be deemed to refer to Hogg's West Virginia code, one thou-  
3 sand nine hundred and thirteen edition.

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## House Bill No. 181

AN ACT to amend chapter fifty-four of the acts of the legislature of  
West Virginia, one thousand eight hundred and ninety-five, cre-  
ating the independent school district of Moundsville, by adding  
thereto section twenty-five relating to compulsory attendance.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-four of the acts of the legislature of one thousand  
eight hundred and ninety-five, creating the independent school dis-  
trict of Moundsville, be amended by adding thereto section twenty-  
five as follows:

Section 25. Every person having under his control a child  
2 between the age of seven years and fourteen years shall cause such  
3 child to attend one of the public schools within said independent  
4 school district for a period of twenty-four weeks beginning with  
5 the opening of the school term therein; *provided*, that the excep-  
6 tions set out in the general school law and the general law of this  
7 state relating to child labor shall apply in said independent school  
8 district and shall limit the application of this section.

9 For every neglect of such duties the person offending shall be  
10 guilty of a misdemeanor and shall, upon conviction thereof before  
11 any justice who is hereby authorized to try and determine such  
12 cases, be fined two dollars for the first offense and five dollars for  
13 each subsequent offense; fines shall be paid into the building funds

14 of the said independent school district. An offense as understood  
15 herein shall consist of the failure of such person for two days in  
16 any week to cause such child to attend school.

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## House Bill No. 46.

AN ACT to amend and re-enact sections twenty-five, thirty-one, forty, forty-five, one hundred and twelve and one hundred and twenty-four of chapter sixty-six, acts of the legislature of one thousand nine hundred and seventeen, and adding to said chapter sections five-a, fourteen-a and one hundred and thirty-two-a.

*Be it enacted by the Legislature of West Virginia:*

That sections twenty-five, thirty-one, forty, forty-five, one hundred and twelve and one hundred and twenty-four of chapter sixty-six acts of the legislature of one thousand nine hundred and seventeen, and adding to said chapter sections five-a, fourteen-a and one hundred and thirty-two-a, be, and the same is hereby amended, enacted and re-enacted to read as follows:

Section 5-a. That in addition to the assent given and the  
2 good faith pledged by the legislature by virtue of section five, of  
3 chapter sixty-six of the acts of one thousand nine hundred and  
4 seventeen, regular session, the legislature of West Virginia, hereby  
5 assents to the provision or provisions of any subsequent act of  
6 the congress or appropriation thereby, making provision for the  
7 survey, construction or maintenance of rural post roads.

8 The state road commission is hereby authorized to enter into  
9 all contracts and agreements with the United States government  
10 relating to such survey, construction and maintenance as may be  
11 required by the secretary of agriculture or other officer having  
12 authority to enter into such contracts. For the construction and  
13 maintenance of rural post roads the good faith of the state is  
14 hereby pledged to make available funds sufficient to equal the  
15 sums which may be apportioned to the state, by or under the  
16 United States government, during each of such years as federal  
17 aid may be so apportioned to this state

Sec. 14-a. The state road commission in conjunction with  
2 the West Virginia university may hold, annually, a school of good  
3 roads, of not less than three days duration. All county road  
4 engineers and county supervisors and presidents of the county



5 courts shall attend said school and receive instructions in road  
6 building and maintenance. The road commission shall fix the  
7 time, or times, and may hold or conduct said school or schools, at  
8 the West Virginia university, and other points in the state. The  
9 actual expenses incurred by said county road engineer, supervisors  
10 and presidents or members of said county courts shall be paid out  
11 of the county treasury.

12 To provide the ablest talent and to bring to the state the latest  
13 improvements and method in road construction and maintenance  
14 the road commission shall be members of and attend national road  
15 conventions, associations, and conferences of federal and state road  
16 officials, and shall do everything necessary to carry to every section  
17 of the state the most practical discoveries and economical methods  
18 of road construction and maintenance. The expense of the road  
19 commission or of any of its division engineers attending any road  
20 school or convention shall be paid out of the proper appropriation  
21 of the commission.

Sec. 25. It shall be the duty of the state road commission at  
2 the beginning of each fiscal year to apportion to the several coun-  
3 ties of the state, which have complied with the provisions of this  
4 act, in the establishment of main county roads, and which agree to  
5 supplement said apportionment by a like sum, the state road funds  
6 in proportion to the number of miles of main county roads in the  
7 several counties approved by the commission, and certify the same  
8 to the several county courts.

9 Any county court which has complied with all the provisions  
10 of this act and agrees to supplement said apportionment with a  
11 like sum shall enter an order of record stating such fact and agree-  
12 ing to contribute a like sum for the construction and maintenance  
13 of main county roads, and apply it to the state road commission for  
14 its distributable share thereof.

15 It shall then be the duty of the said road commission to set  
16 apart for the use and to be paid to the said county its distributable  
17 share and certify the same to the auditor of the state. The said  
18 commission making said distribution may in its discretion distrib-  
19 ute to any county wholly federal or wholly state fund; in either  
20 event such distribution shall be taken and considered as the dis-  
21 tributable share to which each county is entitled, regardless of  
22 whether it be state or federal aid. When the said county court has  
23 contracted to improve its main county roads, or make provision  
24 therefor, it shall be the duty of the state road commission to pay to

25 said court, by requisition upon the auditor from time to time, such  
26 parts of said apportionment as shown, by the proper estimates  
27 made by the engineer in charge of said work or construction, to be  
28 properly due upon said contract exceeding one-half of the cost  
29 thereof. *Provided, however,* that in any county that has laid the  
30 maximum twenty-five cent class "a" levy on each one hundred dol-  
31 lars taxable valuation of property within the entire county and  
32 has set aside or used for maintenance therein, not exceeding fifty  
32-a dollars per mile of class "a" road therein, shall receive the al-  
33 lotment accruing thereto to be expended as the state road commis-  
34 sion may direct, but nothing contained in this provision shall be  
35 construed to give any county assistance or aid in excess of fifty  
36 percent of the cost of the construction unless said county shall have  
37 laid the maximum levy for class "a" roads and shall have main-  
38 tained in its class "a" fund the full amount of levy, excepting  
39 maintenance expenditures of not over fifty dollars per mile of  
40 class "a" road. The state road commission, in case the federal  
41 government increases the apportionment to this state, may, in  
42 matching said federal apportionment, consider all funds raised  
43 from either or both state and county levies and fees. And to meet  
44 additional necessary engineering or inspection expenses that will  
45 be incurred by reason of additional responsibility, there is hereby  
46 appropriated and the said road commission is authorized to set  
47 aside in addition to its regular appropriations, out of funds at its  
48 disposal a sum not to exceed three percent of such additional funds  
49 or appropriations accruing to the state.

Sec. 31. In addition to the general county and district levy  
2 the county court shall lay a district levy not to exceed fifteen  
3 cents on each one hundred dollars' assessed valuation of all tax-  
4 able property in each of the several districts of said county, the  
5 proceeds of which shall be known as the district road fund of such  
6 district, and shall be expended only for the construction, improve-  
7 ment and maintenance of the district roads and parts thereof in  
8 said district, and for the construction and maintenance of bridges  
9 thereon after said roads are properly located. The county court  
10 of any county, with the written approval of the state tax com-  
11 missioner, may lay a special district levy in excess of the district  
12 road levy hereinbefore provided, not to exceed fifteen cents on  
13 each one hundred dollars' assessed valuation of all the taxable  
14 property of the district to be known as a special district road levy  
15 for the construction, maintenance and improvement of the roads

16 of such district, or the bridges thereon, for such year or years as  
17 may be named in such approval, but in no case shall the combined  
18 district road levy and special district road levy exceed thirty  
19 cents on each one hundred dollars' assessed valuation of the tax-  
20 able property of said district. Nothing contained in section two  
21 of chapter twenty-eight-a of the code as amended shall be so con-  
22 strued as to limit the power and authority of the county court to  
23 lay the respective county and district road levies provided for in  
24 this section, though by so doing the total levies laid may exceed  
25 the limit provided by said section.

Sec. 40. By and with the advice and consent of the county  
2 court, the county road engineer, or supervisor, may employ such  
3 assistants, clerks, foreman, inspectors, agents and employees as  
4 may be deemed necessary to properly plan, locate, construct, main-  
5 tain and care for the roads, pay rolls, files, communications and  
6 records under his charge and may discharge such agents and em-  
7 ployees at pleasure. Such agents and employees may receive  
8 such compensation per day, month or year as may be determined  
9 by the county court of the county, according to the services  
10 rendered.

Sec. 45. The county road engineer, or any county super-  
2 visor may, with the approval of the county court of the county,  
3 purchase any gravel, stone, earth or wood necessary in the construc-  
4 tion, repair or maintenance of a public road, from any owner of  
5 such materials within or without the county. If such officer and  
6 the county court shall not be able to agree with such owner upon  
7 the price to be paid for such material, the officer by direction of  
8 said court may proceed to acquire such property and the right to  
9 take and remove the same by condemnation proceedings within his  
10 said county. Any such road officer shall also be authorized to  
11 enter upon any land adjacent to a public road for the purpose  
12 of opening any existing drain or ditch or for digging any ditch or  
13 drain for the free passage of water in order to drain such road;  
14 and to enter upon any land adjoining rivers, streams or creeks to  
15 drive piles, throw up embankments or perform any other labor  
16 necessary to keep such rivers, streams or creeks within their proper  
17 channel and prevent their encroachment upon public roads or abut-  
18 ments of bridges, or any other damage to such roads or bridges;  
19 and for any damage done to such lands by entry thereon as afore-  
20 said, the county court may make a reasonable and proper allowance  
21 to the owner. All moneys provided by this section to be paid by

22 the county court as compensation or damages shall be paid from  
23 the respective funds applicable to the maintenance of the roads  
24 benefited.

Sec. 112. The sheriff upon recommendation of the county  
2 engineer or other representatives of the county court having the  
3 work in charge, and with the approval of the county court, shall  
4 employ a sufficient number of persons to guard such prisoners, not  
5 to exceed one for every ten prisoners so employed on such county  
6 roads, and the wages of such guards shall be paid out of the county  
7 treasury when allowed by the county court. Such guards, when  
8 employed shall be subject to, and under the direction of, the county  
9 road engineer or other representative of the county court having  
10 the work in charge. The keeper of the jail shall file with the clerk  
11 of the county court a monthly statement showing the number of  
12 prisoners in jail awaiting trial, the number of prisoners sentenced  
13 to work upon the public roads, the number of days' work performed,  
14 the number of days idle, the reason therefor, and shall furnish a  
15 duplicate copy to the state road commission. Whenever prisoners  
16 are worked from camps or kept outside of the jail, the person in  
17 charge of the camp shall furnish the jailer with the information  
18 herein required, or file the same with the clerk of the county court  
19 under the direction of the county road engineer, or other such  
20 representative of the court.

21 The county prisoners may be worked upon any road or may be  
22 used in the preparation of any road material within or without the  
23 county where the county is doing such work under the direction of  
24 the county road engineer. The county court of any county work-  
25 ing prisoners may by order authorize the county engineer or per-  
26 son having said prisoners in charge to allow such payment for  
27 good service and good behavior as may be deemed advisable.

28 The county court of any county not having sufficient prisoners  
29 to justify working them upon public roads or not having adequate  
30 provisions for working the same shall communicate with the county  
31 court of the adjoining counties and arrange for the transfer of  
32 such prisoners to the prison camp of the county so working said  
33 prisoners, or the judge of the circuit court, criminal court or inter-  
34 mediate court, or any justice sentencing a prisoner to work upon  
35 the road may direct, in so sentencing, the county to which said  
36 prisoner may be transmitted for labor; *provided*, the said county  
37 in which such prisoner is sentenced does not provide for working  
38 prisoners within its borders. Any prisoner so transferred shall be

39 subject to the rules, regulations and direction of the officials of the  
40 county to which he is transferred and worked.

Sec. 124. Every motor vehicle operated or driven upon the  
2 public highway of this state shall be provided with adequate  
3 brakes in good working order and sufficient to control such vehicles  
4 when same are in use, and an adequate horn or other device for  
5 signaling sufficient under all conditions to give timely warning of  
6 the approach of the motor vehicle.

7 During the period from thirty minutes after sunset to thirty  
8 minutes before sunrise, all vehicles, motor driven, shall  
9 display at least one lighted lamp on the front, the lens of  
10 which shall be frosted, shaded, colored, corrugated or otherwise  
11 constructed as to break the glare of the reflector so as to produce  
12 a non-glaring light. Every motor vehicle shall have displayed on  
13 the rear thereof, a red light visible from the rear, the white rays of  
14 such rear light shall shine upon and illuminate the number plate  
15 carried on the rear of such vehicle so that said number shall be  
16 clearly visible; *provided*, that such motor vehicle may be equip-  
17 ped with what is known as a search or spot light, which shall not  
18 be used as a headlight for driving. Every such motor vehicle  
19 shall have devices to prevent excessive noise, annoying smoke,  
20 escape of gasoline or steam, as well as the falling out of embers  
21 or residue from the engine, and all exhaust pipes, carrying ex-  
22 haust from the engine, shall be directed parallel to the ground or  
23 slightly upwards.

Sec. 132-a. On and after December thirty-first, one thousand  
2 nine hundred and twenty, all motor vehicles and chauffeur's  
3 licenses shall be issued and tags thereon shall represent the calen-  
4 dar year beginning January first and ending December thirty-first.  
5 The state road commission shall collect the full license fee from  
6 January first to August thirty-first of each year and shall collect  
7 one-half of license fee from September first to December thirty-  
8 first of each year. Licenses issued from July first, one thousand  
9 nine hundred and nineteen, to December thirty-first, one thousand  
10 nine hundred and nineteen, shall be for one and one-half years, the  
11 tags issued thereon shall be good to December thirty-first, one  
12 thousand nine hundred and twenty. The commission shall col-  
13 lect from January first, one thousand nine hundred and twenty,  
14 to August thirty-first, one thousand nine hundred and twenty,  
15 the full fee for such vehicles and the tags issued by the commis-

16 sion for one thousand nine hundred and twenty shall be valid,  
17 when issued, to December thirty-first, one thousand nine hundred  
18 and twenty. Nothing in this provision shall be construed to  
19 change the fiscal year so far as the distribution of the funds of  
20 said Commission are concerned.

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## House Bill No. 169

AN ACT authorizing the board of education of the independent school district of Wheeling to purchase, equip and maintain a piece of ground for the purpose of physical education.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of the independent school district of Wheeling is hereby authorized to purchase, equip and maintain a piece of ground, not to exceed in quantity more than ten (10) acres, either within the limits of the city of Wheeling, or without the same, to be used for the purpose of physical education of the students of the public schools of said city, and if the owner or owners of the piece of ground selected by said board for said purpose refuse to sell said land so selected, or demand an unreasonable price therefor, or if the owner is *non compos mentis*, a minor, or a non-resident, the board of education may petition the circuit court to have such land condemned, and such proceedings shall thereupon be had in the name of such board for the condemnation thereof, as are provided for in chapter forty-two of the code of West Virginia.

Sec. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

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## House Bill No. 277

AN ACT relating to interest on high school bonds of Washington district, Pleasants county, West Virginia.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Pleasants county is hereby authorized and directed to refund to the sheriff of said county all the interest accrued to the county treasury from July first, one

4 thousand nine hundred and seventeen, until this act becomes ef-  
5 fective, upon the total amount which was credited by said county  
6 court, since the said first day of July, to the high school bond  
7 fund of Washington district of the said county, and the said  
8 sheriff shall place the amount of the said interest to the credit of  
9 the high school bond fund of the said district.

Sec. 2. All interest accruing on the said high school bond  
2 fund shall, from the passage of this act, be credited by the said  
3 sheriff to the high school bond fund of Washington district.

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## House Bill No. 196

AN ACT to fix the salary of the prosecuting attorney of Barbour  
county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the salary of the office of prosecuting at-  
2 torney of Barbour county be and the same is hereby fixed at the  
3 sum of \$1,800.00 per year.

Sec. 2. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

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## House Bill No. 221

AN ACT to amend and re-enact section twenty-six of chapter sixty-  
six of the acts of the legislature of one thousand nine hundred  
and seventeen, relating to a special levy for permanent road  
improvement for Calhoun county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Calhoun county, upon peti-  
2 tion of twenty per cent of the voters voting at the last general  
3 election, is hereby authorized to lay a levy each year, in addition  
4 to all other levies allowed by law, not exceeding twenty-five cents  
5 on each one hundred dollars of all taxable property of the county  
6 for the year the levy is laid, to be called a special road levy for  
7 the purpose of permanently improving the roads of said county  
8 as hereafter set forth (permanently improving main class "a"  
9 roads). All moneys raised by said levies shall be expended as

10 hereinafter set forth: one-half of said fund to be spent in the  
11 magisterial districts of Sheridan, Center and Sherman, the re-  
12 maining one-half to be expended in Lee and Washington dis-  
13 tricts; all to be expended on class "a" roads, beginning at two  
14 stated points: First, at the corporation line of the town of  
15 Grantsville, thence to the Wirt county line; second, beginning at  
16 the corporation line of Grantsville to the Lee district line; third,  
17 beginning at the Roane county line on the Glenville, Ripley and  
18 Ohio turnpike, commonly known as the Arnoldsburg and Spencer  
19 pike; thence with said pike to the Sherman district line, con-  
20 necting with the Grantsville road; thence from the mouth of  
21 Millstone up the West Fork to the terminal of class "a" road.  
22 All moneys raised by said levy shall be used only for road pur-  
23 poses, as set forth, and for the purpose of building bridges in  
24 said roads. After the completion of the above described roads, the  
25 county court may at its discretion expend the money raised from  
26 year to year, as set forth for the improvement of class "a" roads,  
27 in the said magisterial districts.

Sec. 2. Said roads or turnpikes shall be permanently im-  
2 proved by said county court of Calhoun county in such manner as  
3 is set forth. All moneys realized from said special levy shall be  
4 placed in a separate fund, and separate accounts shall be kept by  
5 said court of the receipts and expenditures of the same, setting  
6 forth clearly the sum received by said special levy, and the man-  
7 ner in which the same was expended.

Sec. 3. The fund arising from said road levy shall be used  
2 for no other purpose than for the one above designated, except to  
3 build bridges where necessary in building said described roads.

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## House Bill No. 288

AN ACT to amend and re-enact section six of chapter fifty-two of  
Barnes' code of one thousand nine hundred and eighteen.

*Be it enacted by the Legislature of West Virginia:*

That section six of chapter fifty-two of Barnes' code of one thou-  
sand nine hundred and eighteen be amended and re-enacted to read  
as follows:

Section 6. The land acquired by condemnation by any com-  
2 pany incorporated for a work of internal improvement along its



3 line generally, shall not exceed one hundred feet in width, except  
4 in deep cuts and fillings, and then only so much more shall be  
5 acquired as may be reasonably necessary therefor; the land which  
6 it may acquire for buildings or for an abutment along its line  
7 generally, shall not exceed three acres in any one parcel; and the  
8 land which it may acquire for buildings or other purposes of the  
9 company at the principal termini of its work, or at any place or  
10 places within five miles of such termini, shall not exceed fifteen  
11 acres in any one parcel, but in the case of a railroad company, an  
12 amount of land not exceeding one hundred acres in any one parcel.  
13 may be acquired for its main depots, machine shops, termini, and  
14 other necessary purposes connected with the business of said com-  
15 pany.

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## House Bill No. 302

AN ACT to fix the salary of the prosecuting attorney of Wyoming  
county, and fixing the time and manner of the payment of the  
same; and also providing for the appointment of an assistant  
prosecuting attorney of said county and fixing the salary of  
such assistant; and repealing all acts and parts of acts incon-  
sistent with this act.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Wyoming county, West Vir-  
2 ginia, shall allow and pay to the prosecuting attorney thereof,  
3 out of the treasury of said county, an annual salary of not less  
4 than one thousand eight hundred dollars and not exceeding two  
5 thousand four hundred dollars, which salary shall be paid  
6 monthly in the same manner that the salaries of other county  
7 officers are paid.

Sec. 2. The prosecuting attorney of said county may desig-  
2 nate, and by and with the advice and consent of the said county  
3 court, appoint some competent attorney as assistant prosecuting  
4 attorney of said county, and said county court may, in its discre-  
5 tion pay such assistant prosecuting attorney such reasonable  
6 salary for his services as such assistant as said court may deem  
7 proper, but such salary shall not exceed the sum of one thousand  
8 two hundred dollars per annum. Such salary shall be paid to

9 said assistant monthly, out of the county treasury, and in the  
10 same manner as the salary of other county officers is paid. Such  
11 assistant shall take the same oath and perform the same duties  
12 required by law of his principal. He may be removed from office  
13 at the will of his principal, or for misconduct or neglect of duty.  
14 In case such assistant shall be removed, the vacancy may be filled  
15 as herein provided for his appointment. It shall always be dis-  
16 cretionary with said county court whether such assistant is ap-  
17 pointed, and it may at any time, by an order entered of record,  
18 stop the payment of the salary of such assistant.

19 All acts and parts of acts inconsistent with this act are  
20 hereby repealed.

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## House Bill No. 263

AN ACT empowering, authorizing and requiring the county court of Marion county to accept a grant or devise of suitable land and buildings situate within the corporate limits of the city of Fairmont, for a home for poor, indigent and dependent white children of said county; to properly equip, maintain and conduct the same as such home, determine as to the children to be admitted thereto, there maintain such children, adopt and enforce rules and regulations necessary for the conduct of such home, select, employ and pay all competent persons necessary for the conduct thereof; accept endowments, transfers, donations and gifts of real estate, rents and income from real estate, cash, stocks, bonds and other personal estate and property, interest, dividends and income from cash, stocks, bonds and other personal estate and property, for aiding in the maintenance and conduct of such home, and to provide by levy any funds required therefor in excess of those secured through endowments, transfers, donations and gifts, and expend such, as well as that received from such endowments, transfers, donations and gifts, so far as required, in the maintenance, conduct and continuation of such home, including the payment of salaries and wages of the persons employed therefor.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of the county of Marion  
2 (in this state), a body politic, be and is fully authorized and em-  
3 powered, as well as required, to accept from any person possessing

4 the same by fee simple title and desiring to grant the same to it,  
5 a grant or devise of land with buildings already erected thereon  
6 situate within the corporate limits of the city of Fairmont, in said  
7 county of Marion, for a home for the shelter, care and maintenance  
8 of poor, indigent and dependent children whose parents are, at  
9 the time of their admission to such home, citizens and residents of  
10 the said county of Marion. And the fact that such grant or devise  
11 may contain conditions, restrictions and requirements based upon  
12 the provisions, or any of them, of this act, shall not constitute  
13 objection or impediment to said county court accepting such grant  
14 or devise.

Sec. 2. That said county court be and is fully authorized  
2 and empowered, as well as required, on becoming vested with title  
3 to said land and buildings, to fully and properly equip the same as  
4 and for such home; and to perpetually maintain, continue, conduct  
5 and carry on the same as such home for such children, and thereat  
6 and therein properly maintain, keep, feed, clothe, nurse and in  
7 every way, manner and respect care for such poor, indigent and  
8 dependent children who are there provided with homes and housed  
9 and kept; and to provide, at all times, a sufficient number of com-  
10 petent and suitable trained persons to properly conduct, continue  
11 and carry on such home

Sec. 3. Said county court shall have authority and power  
2 from time to time, to select, hire and appoint all nurses, teachers  
3 and other agents necessary and required for the said home, to fix  
4 the salaries and wages of such and provide for and make payment  
5 thereof, and to adopt, promulgate and enforce reasonable and  
6 proper rules and regulations for the conduct of such home.

Sec. 4. Said county court shall at all times have and exer-  
2 cise full and complete supervision, management and control of  
3 said land and buildings, and said home and the children thereat  
4 and therein, as well as over said nurses, teachers and agents; and  
5 shall at all times keep said buildings and grounds in proper  
6 condition.

Sec. 5. The children to be admitted to such home and  
2 there kept and maintained shall be of the white or Caucasian race,  
3 and may be of any age under fifteen years, and their admission  
4 shall be determined by said county court, and they shall be per-  
5 mitted to remain there until of such age as said county court  
6 shall determine before discharging them therefrom; but if be-

7 cause of incorrigibility or other good and sufficient cause said  
8 county court shall determine that it is for the best interest of  
9 said home that any child be discharged therefrom at an earlier  
10 period, it shall have power and authority to so cause the discharge  
11 of such child.

Sec. 6. The children admitted to such home shall have the  
2 most humane treatment, nursing, nurturing, care and attention,  
3 and shall be given and have opportunity to secure education along  
4 all practical lines, including domestic science and domestic art,  
5 and shall be at all times surrounded with christian influence and  
6 environments.

Sec. 7. Said county court shall have authority to accept any  
2 and all endowments, transfers, donations and gifts which may be  
3 made to it of real estate, rents and income from real estate, cash,  
4 stocks, bonds and other personal estate and property, interest,  
5 dividends and income from cash, stocks, bonds and other per-  
6 sonal estate and property, for the purpose of aiding in the mainte-  
7 nance, conduct, continuation and carrying on of such home as by  
8 this act required; and shall expend the same therein and therefor  
9 as such may be required from time to time. And it shall be the  
10 duty of said county court, and it shall have authority and power,  
11 to fully provide, at all times, the moneys necessary and required  
12 to maintain, conduct, continue and carry on such home and pro-  
13 vide for the said children as by this act required; and any moneys  
14 required therein and for such purposes in excess of the moneys  
15 secured by it through such endowments, transfers, donations and  
16 gifts aforesaid, the said county court shall have power and author-  
17 ity to raise each year by direct levy in the same manner as other  
18 levies for county purposes, and the same shall be expended and  
19 applied in and for such purposes.

Sec. 8. This act shall be in effect from date of passage.

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## House Bill No. 9

AN ACT to amend chapter fifty-five-a of the code of West Virginia,  
relating to fraternal beneficiary societies by adding sections  
thirty-three, thirty-four, thirty-five, and thirty-six thereto.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-five-a of the code of West Virginia, relating to fraternal beneficiary societies, be amended by adding sections thirty-three, thirty-four, thirty-five and thirty-six, to read as follows:

Section 33. *Fraternal Insurance—Children Insurance*—That  
2 any beneficiary association organized under the laws of this state  
3 or doing business in this state, may issue certificates for the pay-  
4 ment of sick, death or annuity benefits upon the lives of children  
5 between the ages of one and eighteen years who have been ex-  
6 amined and approved in accordance with the laws of such asso-  
7 ciation, provided that the application for such a benefit certificate  
8 shall be made by a parent or guardian of such child or some person  
9 upon whom such child is dependent for support. When such child  
10 shall arrive at the age permitting personal application for insur-  
11 ance under the laws of such association, the certificate issued under  
12 this provision may be exchanged for any other form of certificate  
13 issued by the association, such exchange to be in accordance with  
14 the constitution, laws and regulations of such association. The  
15 free designation of a beneficiary in such exchange being left to  
16 such child.

Sec. 34. *When Permitted*—That such association shall not  
2 issue any such benefit certificate until after it shall have simul-  
3 taneously put in force at least five hundred such certificates on  
4 each of which, at least one assessment has been paid; nor where  
5 the number of lives represented by such certificate falls below five  
6 hundred.

Sec. 35. *Basis of Rates*—That the net beneficiary assessment  
2 collected upon such certificate shall be based upon the standard  
3 industrial table of mortality now adopted by the state of New York  
4 and interest at the rate of three and one-half per centum per  
5 annum, or upon a higher standard. The funds so collected shall  
6 be kept as separate and distinct funds and shall not be liable nor  
7 used for the payment of debts and obligations of the association  
8 other than the benefits herein authorized.

Sec. 36. *Benefits Allowed*—That death benefits shall be made  
2 to increase with advancing age but shall not exceed the sum  
3 specified in the following table, the age therein specified being  
4 the ages at the time of death:

- 5 Between the ages of two and three years, thirty-four dollars;
- 6 Between the ages of three and four years, forty dollars;
- 7 Between the ages of four and five years, forty-eight dollars;
- 8 Between the ages of five and six years, fifty-eight dollars;

- 9 Between the ages of six and seven years, one hundred and  
10 forty dollars;  
11 Between the ages of seven and eight years, one hundred and  
12 sixty-eight dollars;  
13 Between the ages of eight and nine years, two hundred  
14 dollars;  
15 Between the ages of nine and ten years, two hundred and  
16 forty dollars;  
17 Between the ages of ten and eleven years, three hundred  
18 dollars;  
19 Between the ages of eleven and twelve years, three hundred  
20 and eighty dollars;  
21 Between the ages of twelve and thirteen years, four hundred  
22 and sixty dollars;  
23 Between the ages of thirteen and sixteen years, five hundred  
24 and twenty dollars;  
25 Between the ages of sixteen and seventeen years, six hundred  
26 and twelve dollars;  
27 Between the ages of seventeen and eighteen years, seven hun-  
28 dred dollars;  
29 All acts and parts of acts in conflict herewith are hereby  
30 repealed.
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## House Bill No- 281

AN ACT amending and re-enacting chapter ninety-two of the acts of the regular session of the legislature of one thousand nine hundred and seventeen and section twenty-four of chapter one hundred and twelve-a of the code of West Virginia, one thousand nine hundred and sixteen, fixing the number of terms and time for holding the circuit court in each of the counties composing the twenty-first circuit of the state.

*Be it enacted by the Legislature of West Virginia:*

That chapter ninety-two of the acts of the regular session of the legislature, of one thousand nine hundred and seventeen and section twenty-four of chapter one hundred and twelve-a of the code of West Virginia, one thousand nine hundred and sixteen be amended and re-enacted so as to read as follows:

Section 24. That there shall be held in each year at least

2 three terms of the circuit court in and for the county of Braxton  
3 in said judicial circuit so created, and that there shall be held  
4 in each year at least four terms of the circuit court in and for the  
5 county of Nicholas in said judicial circuit so created, and the  
6 terms of the circuit court of the counties of Braxton and Nicholas  
7 in said judicial circuit shall commence and be held as follows:

8 For the county of Braxton on the third Monday in March,  
9 the second Monday in July and the third Monday in November.

10 For the county of Nicholas on the third Monday in January,  
11 on the second Monday in April, on the third Monday in August,  
12 and the third Monday in October.

13 All acts and parts of acts inconsistent herewith are hereby  
14 repealed.

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## House Bill No. 85

AN ACT to authorize the county court of any county to acquire by purchase or otherwise a suitable site and to erect, equip and maintain thereon, a building or buildings, or other structure or structures, in memory and in recognition of the services in the world war of the soldiers and sailors from the county in which such memorial may be located, and to lay levies therefor.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of any county shall have the  
2 power upon the petition of twenty per cent. of the voters of said  
3 county, based on the number of votes cast at the last general elec-  
4 tion, to acquire and to establish at the county seat, or adjacent  
5 thereto, by purchase or otherwise, ground, park or grove and to  
6 erect and to maintain thereon a building or buildings, structure  
7 or structures, monument or monuments, as a memorial in memory  
8 of and in recognition of the virtues and sacrifices of the soldiers  
9 and sailors from the county in the world war, and may lay a tax for  
10 the purpose of acquiring and establishing the same of not more  
11 than five cents on the one hundred dollars, on all taxable property  
12 in the county, and thereafter a like tax of not more than two  
13 cents on the one hundred dollars, such tax to be levied and collected  
14 in like manner as the general taxes of the county, which shall be  
15 kept separate in a fund to be known as the "memorial fund."

Sec. 2. Whenever such memorial is established under this act, the county court shall appoint a board of directors equal in number to the magisterial districts of the county and select one from each of such districts from the citizens thereof, with reference to their fitness for such office. Such directors shall hold office for four years from the first day of July following their appointment, and until their successors are appointed. No person shall be eligible to appointment by reason of sex. Vacancies in the board shall be reported to the county court and filled by appointment in like manner as original appointments for the unexpired term. The county court may remove any director for misconduct or neglect of duty. No compensation shall be paid or allowed any director.

Sec. 3. The board of directors of each memorial established under this act shall, immediately after their appointment, meet and organize by electing one of their number as president and one as secretary; a majority of all the members of any board shall constitute a quorum for the transaction of business. They shall make and adopt such by-laws, rules and regulations from time to time for their own guidance and for the government and use of the memorial, as may be expedient and not inconsistent with this act. Said board shall have authority to contract for the construction or purchase of a memorial established under this act and for repairs thereon or maintenance thereof and the supervision, care and custody of the ground, structure or structures; *provided, however, that* all contracts shall be approved by the county court and that the expenditures of all funds shall be subject to the approval of the county court, and all moneys belonging to the memorial fund shall be deposited in the treasury of such county to the credit of the memorial fund and shall be drawn therefrom on orders issued by the county court. Said orders shall not be drawn except upon requisition of the memorial board attached to proper authenticated vouchers.

Ground, park or a grove for a memorial established under this act may be acquired by condemnation by said board in the same manner as the county court may acquire other real estate for public uses and purposes, and the title of all such property shall be and vest in the county court. The said board shall have power to appoint a suitable custodian and assistants and prescribe rules for their conduct; fix their duties and compensation, and shall have



28 power to remove such appointees and, in general, to carry out the  
29 spirit and intention of this act.

Sec. 4. Each memorial established under this act, shall be  
2 free for the use of the inhabitants of the county, subject to such  
3 reasonable rules and regulations as the board may adopt, in order  
4 to render the use of such building or structure of the greatest ben-  
5 efit to the greatest number; and the said board may exclude from  
6 the use of the building any and all persons who shall willfully vio-  
7 late such rules. The board of directors may extend the use and pri-  
8 vileges of the building and structure to non-residents of the coun-  
9 ty upon such terms and conditions as said board may prescribe.

Sec. 5. The board of directors shall on or before the first  
2 day of July in each year, make report to the county court, stat-  
3 ing the condition of the property, the various sums of money re-  
4 ceived from the memorial fund, and from all other sources, how  
5 much money was expended and for what expended; also an item-  
6 ized budget estimate of expense of the property for the ensuing  
7 year, with such other information and suggestions as they deem of  
8 general interest, or that may be required by the county court.

Sec. 6. Any person or persons, including corporations, who  
2 desire to make donations of cash or other personal property, or  
3 real estate for the benefit of the memorial, shall have the right to  
4 do so, and shall have the right to vest the title thereof in the coun-  
5 ty court, to be held in trust and controlled by such board, the same  
6 as the other property owned or acquired, and according to the  
7 terms and for the purposes set out in the deed, gift, devise or be-  
8 quest.

Sec. 7. Any one who shall willfully deface or injure such  
2 building or property, shall be guilty of a misdemeanor, and on con-  
3 viction thereof shall be punished by a fine of not less than ten dol-  
4 lars nor more than one hundred dollars or by imprisonment not ex-  
5 ceeding twelve months, or both. The fine in each case shall be paid  
6 to the proper officer of the memorial fund, to be used as other  
7 money paid into its treasury.

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## House Bill No. 296

AN ACT fixing the salary of the assistant prosecuting attorney of  
Kanawha county, West Virginia.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That from and after the first day of April, one thousand nine hundred and nineteen, the assistant prosecuting attorney of Kanawha county, West Virginia, shall receive an annual salary, to be fixed by the county court of said county not to exceed the sum of \$3,000, to be paid out of the county treasury.

Sec. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

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## House Bill No. 257

AN ACT fixing the annual allowance to the clerk of the county court of Wetzel county, West Virginia.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Wetzel county, West Virginia shall annually allow the clerk of the county court of said county the sum of not less than six hundred dollars nor more than one thousand dollars for his services for which no other fee or reward is allowed by law. Said salary to begin on the first day of January, one thousand nine hundred and nineteen and end on December thirty-first, one thousand nine hundred and twenty, and this act of said clerks now on the statute book to begin January first, one thousand nine hundred and twenty-one.

All acts or parts of acts in conflict herewith are hereby repealed.

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## House Bill No. 132

AN ACT to amend and re-enact sections nineteen, twenty-six, thirty-one, forty, forty-four, forty-seven and fifty-a of chapter sixty-two of Barnes' code of West Virginia, being section forty of chapter sixty of the acts of one thousand nine hundred and nine, and sections nineteen, twenty-five, twenty-six, thirty-one, forty-four, forty-seven and fifty-a of chapter fourteen of the acts of one thousand nine hundred and fifteen of the legislature of West Virginia, all relating to the protection and preservation of certain animals, birds and fishes, forest and streams.

*Be it enacted by the Legislature of West Virginia:*

That sections nineteen, twenty-five, twenty-six, thirty-one, forty, forty-four, forty-seven and fifty-a be amended and re-enacted so as to read as follows:

Section 19. No person not a citizen of the United States of America shall at any time hunt, pursue, kill or catch any wild animals, or wild birds in this state, or have in his possession fire arms of any kind for the purpose of hunting.

No person shall, at any time, hunt, pursue, kill or catch any wild animals, or wild birds in this state, without first having secured a license so to do, as herein provided, and then only during the respective periods when it shall be lawful to hunt

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9 such game, animals and game birds. Such license may be procured in the following manner, to-wit: The applicant shall go before the clerk of the county court of the county of his residence and fill out a blank application, stating his citizenship, name, age, occupation, or profession, weight, height, place and county residence, color of hair, eyes and complexion; the application shall be subscribed in ink and sworn to by the applicant that his statements are correct and true to the best of his knowledge and belief before the county clerk issuing said license. If the applicant be a citizen of any state or territory of the United States of America, and a non-resident of this state, such application may be made and the license issued by the clerk of the county court in any county in the state, and such non-resident applicant shall pay to the clerk of the county court before receiving the license the sum of eighteen dollars as a license tax for a hunting license permitting him to hunt any of the wild animals or wild birds in this state. All non-resident members of any club or organization owning or leasing a game or fish preserve in this state, shall be required to secure a non-resident license to hunt or fish.

If the applicant be a *bona fide* resident of this state he shall make application for a hunting license to the clerk of the county court of the county of his residence, which application shall be the same as above described, and in the manner so described; or if applicant is a *bona fide* resident and citizen of this state, he may fill out said application and swear to the same before some one authorized to administer oaths and send the same to the

36 county clerk of the county of his residence together with the  
37 amount of license tax herein prescribed and sufficient postage  
38 for the return of the license, and such clerk shall thereupon  
39 issue and send him such license; but before issuing the said  
40 license, the applicant shall in all cases, pay to the clerk of the  
41 county court the sum of one dollar as a license tax; *provided*,  
42 that a *bona fide* resident land owner or his children, or his *bona*  
43 *fide* tenant may, on his own land, hunt any of the game animals  
44 or game birds mentioned in this chapter during the hunting  
45 season without obtaining a license so to do. No person to whom  
46 such license has been issued shall be entitled to hunt, pursue  
47 or kill game in this state, unless at the time of such hunting,  
48 pursuing or killing of game animals, or game birds, he shall  
49 have such license in his actual possession; and he shall exhibit  
50 the same to any officer of this state or to the owner, tenant or  
51 leasee on any land on which he is hunting on demand. Such  
52 license shall be good anywhere in this state to permit the holder  
53 thereof to hunt in any of the counties of this state, but only  
54 during the period of time in which it is lawful to hunt for any  
55 of the game birds or game animals; and such license shall be  
56 good and valid until the end of the calendar year in which the  
57 same is issued. Said license shall be signed by the clerk of the  
58 county court and bear the name of the county, and the seal of  
59 the county court of the county in which same is issued, and shall  
60 bear a number according to the serial order in which it was  
61 issued, and the clerk shall be allowed to deduct twenty-five cents  
62 from such license tax paid him under this section, as a fee for  
63 his services for filling out, acknowledging affidavit and  
63-a issuing said licenses. At the same time that such  
64 a clerk issues such a license to the applicant he shall also de-  
65 liver to him a tag bearing in figures the name and number of his  
66 license, and the name of the county wherein the same was  
67 issued, and if the same was issued to a non-resident of this state,  
68 the said tag shall also bear the words, "non-resident."

69 The form of said license to be issued hereunder, and the  
70 said affidavits to be made to the applicants therefor, and the tag  
71 hereinbefore required to be delivered to the applicant, shall be  
72 designed and supplied to the clerk by the state forest, game and  
73 fish warden, and such tag shall at all times be worn on the arm

74 of the licensee, prominently exhibited, while hunting under the  
75 authorship of said license.

76 Said clerks shall keep an accurate list of all such licenses  
77 issued by them and shall pay into the treasury of the state of  
78 West Virginia on the first day of each month all such license  
79 taxes collected by them for the month next preceding, except  
80 his fees.

81 The carrying of any uncased gun in any of the fields or  
82 woods of this state by any person not having a right to hunt,  
83 pursue or kill game birds, or animals in such fields or woods,  
84 shall, as to such person, other than the *bona fide* owner or own-  
85 ers of such fields or woods, his or their child or children, tenants  
86 or leasees be deemed *prima facie* evidence of a violation of this  
87 section; and any person claiming to hold a license to hunt in  
88 this state, having in his possession any gun or other hunting  
89 paraphernalia in such woods, or fields, shall on failure to pro-  
90 duce such license for inspection to any warden of this state or  
91 to any officer or owner or agent of the owner of such woods and  
92 fields, on demand, or upon failure, at all times to wear, as herein  
93 required, the tag while in such woods or fields, or who shall  
94 transfer or attempt to transfer any license mentioned in this  
95 section, or who shall hunt or attempt to hunt with or under such  
96 transferred license, be deemed guilty of a misdemeanor, and on  
97 conviction be punished as herein provided. Any person violating  
98 any of the provisions of this section shall be deemed guilty of  
99 a misdemeanor, and upon conviction thereof, shall be fined not  
100 less than twenty-five nor more than one hundred dollars for each  
101 and every offense, including the cost of prosecution and a fee of  
102 ten dollars to the attorney prosecuting the case, and in addition  
103 thereto may be confined in the county jail for a period not ex-  
104 ceeding sixty days, in the discretion of the court or justice try-  
105 ing the case, and upon failure to pay said fine and costs, the per-  
106 son convicted shall be confined in the county jail until such fine  
107 and costs are paid, but such imprisonment shall not exceed thirty  
108 days for any one offense. No hunters' license shall be issued to  
109 any minor under the age of fifteen years without the consent in  
110 writing from the parent or guardian of such minor, such con-  
111 sent to be filed with the clerk issuing the license and by him pre-  
112 served, but such infant may hunt on his own land or that of his  
113 parents or guardian.

Sec. 25. No person shall hunt, chase, wound or kill any elk  
2 in this state at any time for a period of eight years from and after  
3 the passage of this act; *provided*, that the owner of any elk, which  
4 shall be kept in any park or field sufficiently inclosed to reasonably  
5 prevent their escape therefrom, shall have the right to kill any elk  
6 of his own; *provided, further*, that such owner may pursue, recap-  
7 ture or kill any of his elks that may escape from his enclosure. No  
8 person shall hunt, chase, wound or kill any deer in this state at any  
9 time for a period of three years from and after the passage of this  
10 act; *provided*, that the owner of any deer, which shall be kept in  
11 any park or field sufficiently inclosed to reasonably prevent their  
12 escape therefrom, shall have the right to kill any deer of his own;  
13 *provided, further*, that such owner may pursue, recapture or kill  
14 any of his deer that may escape from his inclosure.

15 No person shall chase, wound or kill any wild turkey in this  
16 state at any time for a period of two years from and after the  
17 passage of this act. No person or persons shall chase or hunt deer  
18 with dogs in this state at any time. Any person violating any pro-  
19 vision of this paragraph shall be guilty of a felony, and on con-  
20 viction thereof shall be confined in the penitentiary not less than  
21 six months nor more than five years.

22 No person shall hunt, chase, kill or wound any deer after the  
23 year one thousand nine hundred and twenty-one, from the first day  
24 of December until the fifteenth day of October following, of any  
25 year except tame deer owned by the person owning same; nor shall  
26 any one person kill more than one deer in any one season. No per-  
27 son shall at any time kill any fawn, doe, or any other deer than  
28 bucks with horns or antlers over four inches in length, or have the  
29 fresh skin of any doe or fawn in his possession. No person shall at  
30 any time kill or have in his possession any deer, quail, pheasant or  
31 ruffed grouse, wild turkey, squirrel, or any part of the same, or  
32 game fishes with the intention of sending or transporting the same  
33 or having the same sent or transported beyond the limits of this  
34 state. Any person violating any provisions of this paragraph shall  
35 be guilty of a misdemeanor and on conviction thereof shall be fined  
36 not less than twenty-five nor more than fifty dollars for each and  
37 every deer unlawfully hunted, chased, wounded, or killed, and for  
38 each doe or fawn's skin had in his possession and not less than  
39 twenty-five dollars nor more than fifty dollars for each and every  
40 quail, ruffed grouse or pheasant, wild turkey or any part of the

41 same, for each and every game fish and for each deer, or part of a  
42 deer, killed or had in possession with the intention of sending or  
43 transporting the same, or having sent or transported beyond the  
44 limits of this state. And in addition to the fine or fines prescribed in  
45 this paragraph, the person or persons convicted may be confined in  
46 the county jail not to exceed sixty days for each and every offense;  
47 and upon default of the payment of the fine and costs shall be con-  
48 fined in the county jail until the same are paid, but not to exceed  
49 a period of sixty days.

Sec. 26. It shall be unlawful for any person to catch, kill  
2 or injure, or pursue with intent to catch, kill or injure, any  
3 ruffed grouse, or pheasant or wild turkey between the first day  
4 of December and the fifteenth day of October of the following year;  
5 or any quail or Virginia partridge between the first day of Decem-  
6 ber and the first day of November following. Nor shall any one  
7 person kill more than twelve quail or five ruffer grouse, or two  
8 wild turkeys in any one day, and no more than sixty quail or  
9 twenty ruffed grouse, or five wild turkeys in any one open season.  
10 No person shall kill any wild ducks, goose, or brant between the  
11 first day of January and the first day of October; *provided*, that  
12 the wood duck shall not be killed at any time within this state;  
13 woodcock between the thirtieth day of November and the first  
14 day of October following; plover, ortolan, or sandpiper between  
15 the fifteenth day of December and the first day of September fol-  
16 lowing; or any snipe between the fifteenth day of December and  
17 the fifteenth day of October following; nor any gray, black, fox or  
18 red squirrel between the first day of December and the fifteenth day  
19 of September of the following year. Nor shall any person kill more  
20 than ten squirrels in any one day, nor more than seventy during  
21-22 any open season.

23 It shall be unlawful for any person to catch, kill or injure  
24 or pursue with intent to catch, kill or injure any rabbit between  
25 the first day of January and first day of October following; *pro-*  
26 *vided*, it shall be lawful for any person or any of his children or  
27 agents to catch, kill or pursue at any time any rabbit upon his  
28 own land or upon any land upon which he may be an actual  
29 *bona fide* tenant or resident and also for the *bona fide* agent of  
30 the owner of such land to hunt, and kill any rabbit thereon by the  
31 direction of such owner otherwise than by the use of a ferret; but  
32 for the protection of orchards, gardens and young fruit trees or

33 vines, rabbits may be lawfully hunted with ferrets by the owners  
34 thereof or their agents.

35 It shall be unlawful for any person to catch, kill or injure  
36 by means of a gun, snare, trap or poison any red fox, or skunk  
37 between the first day of February and the first day of December  
38 following, except in the following named counties: Pocahontas,  
39 Randolph, Fayette, Pendleton, Monroe, Jefferson, Hardy, Wayne,  
40 Wood, Marshall, Mason, Gilmer, Hancock, Lincoln, Hampshire,  
41 Braxton, Raleigh, Webster, Putnam, Preston, Lewis, Jackson,  
42 Mercer, Greenbrier, Berkeley, Tyler, Boone, Kanawha, Lo-  
43 gan, Barbour, McDowell, Tucker and Calhoun; *provided, how-*  
44 *ever,* that it shall be lawful for any person at any time or by any  
45 means to catch, kill or pursue any red fox or skunk upon his own  
46 land, or on any lands upon which he may be an actual *bona fide*  
47 tenant or resident, and also for the agent of the owner or tenant  
48 of such land to so hunt and kill any red fox or skunk thereon by  
49 the direction of such owner or tenant. It shall be unlawful  
50 for any person at any time to set or maintain any snare upon the  
51 improved or inclosed lands of another without the express per-  
52 mission of the owner or tenant of such lands, or at any time to  
53 set or maintain any steel or spring bear trap upon any lands  
54 not his own.

55 Any person violating any of the provisions of this section  
56 shall be guilty of a misdemeanor and upon conviction thereof  
57 shall be fined not less than twenty-five dollars and no more than  
58 fifty dollars for each offense, and in the discretion of the justice  
59 or court trying the case, be imprisoned in the county jail for a  
60 period not exceeding thirty days for each offense, and the unlaw-  
61 ful catching, killing or injuring of each and every wild game bird,  
62 or wild game animal hereinbefore mentioned in this section, shall  
63 be deemed a separate offense, and in default of the payment of the  
64 fine and costs, the persons convicted shall be confined in the  
65 county jail for a period not exceeding thirty days, unless such  
66 fine and costs be sooner paid; *provided, however,* that the forest,  
67 game and fish warden or deputy warden, or other persons under  
68 the direction of a warden may capture by any means any of the  
69 game birds or game animals to keep them alive for propagation  
70 purposes. And *provided, further,* that the warden may give writ-  
71 ten permission to any responsible person as provided by section  
72 thirty-eight of this chapter.

Sec. 31. All moneys collected for fines, license taxes or



2 otherwise and due the state, under and by virtue of the provisions  
3 of this chapter, shall be disposed of as follows: The net proceeds  
4 of all fines collected from convictions for the violation of any  
5 section of this chapter, shall, after the payment of the amount  
6 fixed by this chapter to the proper deputy warden and the cost  
7 as provided by law, be paid into and credited to "the school fund"  
8 of this state, as provided by the constitution; all other moneys due  
9 the state by virtue of any provision of this chapter, as now  
10 amended, shall be paid into the state treasury and credited to  
11 the "forest, game and fish protective fund" and the same shall be  
12 applicable to the payment of the expense of inaugurating, carry-  
13 ing out and maintaining any and all of the purposes set forth  
14 in this chapter, as now amended, and of any other law relating  
15 to protection of forest or the protection and propagation of game  
16 and fish, and shall be paid out upon the requisition of the game  
17 and fish warden, approved by the governor, for which purpose said  
18 fund is hereby appropriated.

19 And the forest, game and fish warden shall annually out of  
20 the forest, game and fish protective fund stock the streams of this  
21 state with trout, bass and any other proper fish to the extent of  
22 twenty per cent of the annual income of such fund, but such ex-  
23 penditure shall be with the consent of the governor. And the for-  
24 est, game and fish warden is hereby empowered, when so ap-  
25 proved by the governor, to offer reasonable rewards for the arrest  
26 and conviction of persons violating the provisions of this chapter,  
27 and also to employ and pay persons to assist in arresting or pro-  
28 curing evidence for the conviction of persons violating the pro-  
29 visions of this chapter, or any law for the protection of game and  
30 fish in this state, all of which shall be paid out of the said forest,  
31 game and fish protective fund.

Sec. 40. The English or European sparrow, owls, hawks,  
2 eagles, crows, king fishers, and the common black bird, sometimes  
3 called the "crow" black bird, are not included among birds pro-  
4 tected by this chapter.

Sec. 44. It shall be unlawful for any person not a citizen  
2 of the United States of America, or not a bona fide resident of  
3 this state, or any corporation doing business in this state to catch  
4 or destroy any of the fish in creeks or rivers of this state, or  
5 subject to the jurisdiction thereof, without first having obtained  
6 a license so to do, and then only by the means whereby and  
7 during the respective periods when it shall be lawful to do so.

8 Such license shall be procured in the following manner to-wit;  
9 The applicant shall go before the clerk of the county court of  
10 some county of this state and fill out a blank application, to be  
11 provided by the forest, game and fish warden, stating his name,  
12 age, occupation, weight, height, place of residence, and color of  
13 hair, eyes and complexion; said application shall be subscribed  
14 by the applicant in ink, and sworn to by the applicant before  
15 said clerk, and shall aver that his statements made therein are  
16 true, and correct to the best of his knowledge, and belief; the  
17 applicant shall thereupon pay to said county clerk the sum of  
18 five dollars as a license tax. The said clerk shall thereupon  
19 issue to such applicant a license of the form to be furnished by  
20 the said warden, entitling such applicant to catch and take fish  
21 according to law from any of the creeks or rivers in this state;  
21-a *provided, however*, that such applicant may fill out said appli-  
22 cation and sign and swear to the same before some notary public  
23 or justice of the peace of the county wherein such application  
24 is made and sent the same to said clerk, together with the amount  
25 of said license tax, and such clerk shall send him such license.  
26 Such license shall be signed by said clerk and shall bear the seal  
27 of the county court of the county in which the same is issued and  
28 for his services in issuing same the clerk shall receive the sum of  
29 twenty-five cents. All such license taxes shall be paid by the said  
30 clerk to the said treasury on the first day of each month for the  
31 month next preceding, except his fees. No person to whom such  
32 license has been issued shall exercise the privilege thereby con-  
33 ferred without at the same time having such license in his actual  
34 possession, and he shall exhibit the same on demand to any officer  
35 of this state, or owner, tenant or lessee of any land upon which  
36 such person is fishing; *provided, however*, that nothing herein  
37 contained shall be construed to require the nonresident owner of  
38 any lands in this state, or his children, to obtain such license in  
39 order to lawfully fish upon such land.

40 It shall not be lawful for any person to have in his possession  
41 or to set or maintain anywhere in this state, or on any water sub-  
42 ject to the jurisdiction thereof any seines, net or traps or devices  
43 of like nature, whereby fish may be taken or caught. Nor shall it  
44 be lawful for any person to catch or have in his possession any  
45 jack salmon, commonly called jack fish, or any white salmon less  
46 than seven inches in length, any pike or pickerel of less than  
47 ten inches in length, any black bass less than eight inches in

48 length, or any trout less than six inches in length, or to catch  
49 or kill by use of gig or spear any black bass or trout, or have in  
50 his possession any black bass or trout so caught or killed, or any  
51 fish caught out of season or caught or taken in any manner pro-  
52 hibited by law. All fish less than the length prescribed herein  
53 shall be returned to the water immediately with as little injury  
54 as possible.

55 And the measurement of the fish shall be taken from the  
56 end of the nose to the center fork of the tail. It shall be unlaw-  
57 ful to take or destroy any jack salmon, jack fish, or white sal-  
58 mon in any manner between the first day of April and the first  
59 day of June of each year; or to catch or destroy any trout or land-  
60 lock salmon in any manner between the first day of September  
61 and the first day of May following. It shall be unlawful for  
62 any person to catch any black bass, green bass, willow bass, rock  
63 bass, pickerel or wall-eyed pike between the first day of April  
64 and the first day of June of each year.

65 It shall not be lawful for any person to catch or destroy fish  
66 in any dam or pond the property of any person, except with the  
67 consent of the owner of such dam or pond, unless such dam  
68 or pond be in some of the rivers of this state. But nothing in  
69 this chapter shall be so construed as to prevent the catching of  
70 minnows or other fish, except salmon, bass, shad and trout, by  
71 means of hands or nets to be used for angling or scientific pur-  
72 poses; nor to prevent the warden of the state or his deputies or  
73 any person with their or his consent from catching any fish at  
74 any time with nets or seines for the purpose of propagation or  
75 stocking other waters, nor to prevent any person from taking  
76 in any way fish from his private dam, spring or pond at any  
77 time.

78 Any person who shall knowingly and wilfully let the water  
79 out of any pond mentioned herein, with the intent to take or  
80 injure the fish therein, shall be guilty of a misdemeanor, and  
81 shall be punished, upon conviction, by imprisonment in the  
82 county jail, not less than one month nor more than six months,  
83 or by fine of not less than fifty nor more than two hundred  
84 dollars, or by both fine and imprisonment.

85 The owners or those in control of lands or rights in land;  
86 in or bordering upon any pond designated in this act, shall have  
87 erected and maintained in a conspicuous place along these ponds  
88 when they are unenclosed, a sign at least a foot square and which

89 shall have thereon the name of the party in control, and the  
90 words "trespassers warned off under penalties of the law." Any  
91 person who shall wilfully and wrongfully tear down, deface or  
92 injure the boards provided for in this section, shall be guilty of  
93 a misdemeanor and liable to a penalty as hereinafter provided.

94 Any person violating any provision of this section, except as  
95 otherwise herein provided, shall be guilty of a misdemeanor, and  
96 for every conviction thereof shall be fined not less than ten dol-  
97 lars, nor more than one hundred dollars, and may, at the discre-  
98 tion of the court or justice trying the case be confined in the  
99 county jail not exceeding thirty days.

Sec. 47. It shall be unlawful for any person to kill or at-  
2 tempt to kill any fish by the use of dynamite, or other explosive  
3 mixture or by the use of any poisonous drugs, substance, bait or  
4 food; or by the use of electricity, lime or any other thing of like  
5 nature. And the placing of any such articles or substances in  
6 any stream, pond or lake, shall be deemed and taken to be  
7 *prima facie* proof of intention to violate this section. It shall  
8 be unlawful for any person to kill or take, or attempt to kill or  
9 take, any fish by shooting with any gun, rifle, pistol or other  
10 device of like nature. Any person violating this section shall be  
11 guilty of a misdemeanor, and upon conviction thereof shall be  
12 confined in the county jail for a period of not less than two  
13 months, nor more than twelve months, and shall, at the discretion  
14 of the court, be fined not less than twenty-five dollars nor more  
15 than one hundred dollars; but upon conviction of the same person  
16 for the second offense in this state, he shall be guilty of a felony  
17 and be confined in the penitentiary not less than one nor more than  
18 three years.

Sec. 50-a. From and after the time this act shall take effect,  
2 an award or bounty shall be paid out of the "forest game and  
3 fish protective fund" created by this act, for the killing within  
4 this state only of the following animals and predatory birds, to-  
5 wit: for each lynx, wild-cat, bob-cat, or catamount, the sum of  
6 five dollars; for each hawk, except the sparrow or mouse hawk,  
7 the sum of twenty-five cents; for each great-horned owl, the  
8 sum of twenty-five cents; and for each crow the sum of ten  
9 cents. The payment of such award or bounty may be obtained by  
10 the person killing any such animal or bird in the following man-  
11 ner and not otherwise. He shall produce such killed animal,  
12 or bird within thirty days from the killing thereof, before the

13 justice of the peace of the county in which such animal or bird  
14 is killed, and make an affidavit before such justice that he killed the  
15 same, stating distinctly the time and place of such killing, and that  
16 such place was within the state of West Virginia. Upon the pro-  
17 duction of such animal, or bird, and the making of such affi-  
18 davit, the said justice shall in the presence of the party making  
19 such affidavit and at least one reputable witness residing in said  
20 county, cut off the head of such animal or bird and destroy the  
21 same by burning; and he shall not charge any fee for any service  
22 required of him hereby. Upon the destruction of such head,  
23 such justice of the peace shall endorse upon said affidavit and  
24 sign a certificate of such fact, and deliver said affidavit to the  
25 affiant, who shall present or mail the same to the forest, fish and  
26 game warden, and he shall thereby upon delivery, mail to said  
27 affiant a check for the amount of the said bounty or reward, and  
28 charge the same against the funds out of which said bounty or  
29 award is hereby made payable; *provided, however*, that no more  
30 than ten per cent of the amount derived from the license taxes  
31 collected in any one year under the provisions of this act, shall be  
32 applicable to the payment of such bounty or award claimed during  
33 the succeeding calendar year, and in the event the amount of  
34 such bounties or rewards so claimed in any calendar year should  
35 equal in the aggregate the sum of ten per centum of such license  
36 taxes, the game warden shall immediately thereupon give notice of  
37 such fact in two papers representing two different political parties  
38 published at the seat of government, and thereafter no further  
39 bounties or rewards for any such birds killed during such calendar  
40 year shall be paid; and all claims for bounties or rewards made  
41 as aforesaid shall be paid in the order in which they are received  
42 by the forest, game and fish warden.

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## House Bill No. 76

AN ACT to amend and re-enact sections three, seven, thirteen, four-  
teen, sixteen, twenty-three, twenty-four, twenty-five, twenty-sev-  
en and thirty of chapter sixteen of the acts of one thousand nine  
hundred and fifteen, regular session, and to add thereto sections  
thirty-one, and thirty-two, relating to weights and measures.

*Be it enacted by the Legislature of West Virginia:*

That sections three, seven, thirteen, fourteen, twenty-three, twenty-five, twenty-seven, and thirty of chapter sixteen of the acts of one thousand nine hundred and fifteen, regular session be, and the same are hereby re-enacted and amended so as to read as follows; and that there is enacted and added thereto sections thirty-one and thirty-two.

Section 3. The state commissioner of labor shall be *ex-officio* commissioner of weights and measures, and he shall be authorized to appoint and fix the salaries of such deputies and inspectors, not to exceed two in number, as may be required to carry out the purpose of this act, within the limits of such appropriations as may be made by the legislature for the maintenance of the work of the bureau of labor; *provided*, the salaries of each of said deputies or inspectors shall not exceed eighteen hundred dollars per annum.

Sec. 7. The commissioner of weights and measures, or his assistant commissioner, deputy, or inspectors, at his direction shall at least once in five years try and prove by the office standards all standard weights, measures and other apparatus which may belong to any county or city, required to appoint a sealer and to purchase and keep standards of weights and measures by the provisions of this act, and shall seal such when found to be accurate by stamping on them the letters "W. Va.," and the last two figures of the year with seals which he shall have and keep for that purpose.

The state commissioner or his assistant, deputy or inspectors, at his direction, shall inspect all standard weights, measures and other apparatus used by such counties and cities at least once in two years, and shall keep a record of the same. He, or his deputy, or inspectors, at his direction, shall at least once in two years visit these cities and counties for the purpose and in order to inspect the work of the local sealers, and in the performance of such duties they may inspect the weights, measures, balances, or any other weighing or measuring appliances of any person, and shall have the same powers as the local sealer of weights and measures. The rules and regulations for the guidance of county and city sealers of weights and measures issued by the bureau of weights and measures of Washington, D. C., known as circular No. two, or any subsequent rules and regulations issued by such bureau of weights and measures, shall be the rules and regulations governing the in-

26 spectors and county and city sealers in the performance of their  
27 duties.

Sec. 13. Except in counties where the county commissioners  
2 shall appoint a sealer of weights and measures as hereinafter pro-  
3 vided, the sheriff of the county shall be *ex-officio* county sealer of  
4 weights and measures in each county, and no fee shall be charged  
5 by him or by the county for the inspection, testing or sealing or  
6 the repairing or adjusting of weights, measures, or measuring de-  
7 vices. Whenever the county commissioners of any county shall  
8 deem it necessary, they may appoint and fix the salary of one sealer  
9 and one or more deputy sealers of weights and measures. Such  
10 sealer or deputies, when not appointed merely for some temporary  
11 purpose, shall hold office for a term of four years from the date  
12 of their appointment, unless removed for just cause, and all depu-  
13 ties shall have the same power and may perform the same duties  
14 as the county sealer when acting under his instructions and at his  
15 direction.

Sec. 14. There may be a city sealer of weights and measures in  
2 cities of not less than twenty-five thousand population, according to  
3 the latest official statement of United States census, to be appointed  
4 by the mayor from a list to be furnished by the civil service board,  
5 and under the rules of such board, where such board exists; other-  
6 wise, he shall be appointed by the mayor, by and with the advice  
7 and consent of the common council, and shall hold office for a term  
8 of two years and receive a salary to be determined by the appoint-  
9 ive power. The county commissioners of any county or the mayor  
10 of any such city may appoint one or more deputy sealers of weights  
11 and measures. All deputies appointed shall have the same power  
12 and perform the same duties as the county or city sealer when  
13 acting under his instructions and his direction, and no fee shall  
14 be charged by any county or city for the testing, trying, adjusting  
15 or repairing of any weights or measures, or weighing and measuring  
16 device.

17 The commissioner shall issue from time to time regulations  
18 for the guidance of the county and city sealers and the said regu-  
19 lations shall govern the procedure to be followed by the afore-  
20 said officers in the discharge of their duties.

Sec. 16. Each county or city sealer of weights and measures  
2 or deputy sealer of weights and measures, under the provisions of  
3 sections thirteen and fourteen of this act, shall forthwith upon his  
4 appointment give bond in the penal sum of one thousand dollars,

5 with sureties to be approved by the appointing power, for the faith-  
6 ful performance of the duties of his office.

Sec. 23. It shall be unlawful to keep for the purpose of sale,  
2 offer or expose for sale, or sell any commodity in package form  
3 unless the net quantity of the contents be plainly and conspicuously  
4 marked on the outside of the package, in terms of weights, mea-  
5 sures, or numerical count; *provided, however*, that reasonable  
6 variations or tolerances and also exemptions as to small packages  
7 shall be established by rules and regulations made by the com-  
8 missioner of weights and measures; and, *provided, further*, that  
9 this section shall not be construed to apply to medicinal articles  
10 and to those commodities in packages the manner of sale of which is  
11 specifically regulated by the provisions of other sections of this act.

12 The word "package" as used in this section shall be construed  
13 to include the package, carton, case, basket, can, box, barrel, half  
14 barrel, hamper, keg, drum, jug, jar, crock, bag, pail, wrapping  
15 parcel, package, bottle, phial, or other receptacle put up by the  
16 manufacturer; or when put up prior to the order of the commodity,  
17 by the vendor; which may be labeled, branded, or stenciled or other-  
18 wise marked, or which may be suitable for labeling, branding, or  
19 stenciling, or marking otherwise, making one complete package of  
20 the commodity. The word "package" shall be construed to include  
21 both the wholesale and the retail package; *provided*, that a box or  
22 carton used for shipping purposes containing a number of similar  
23 packages which are individually marked, as hereinbefore provided,  
24 will not be required to bear the weight or measure of contents; and,  
25 *provided, further*, that all commodities in packages, boxes, cans,  
26 bottles or other containers in the hands of merchants, both whole-  
27 sale and retail, at the time of the passage of this act, shall be and  
28 are hereby exempt from the provisions of the same.

Sec. 24. It shall be unlawful for any person to sell or offer  
2 for sale any butter or renovated or process butter or oleomarga-  
3 rine in any other manner than by weight. Whenever such butter,  
4 renovated or process butter or oleomargarine, is sold, offered or  
5 exposed for sale in the form of prints, bricks or rolls, each print,  
6 brick or roll shall bear a definite, plain and conspicuous statement  
7 of its true net weight, on the principal label, where there be such  
8 a label, otherwise, on the outside wrapper of said print, brick or  
9 roll. When such statement is made part of the printed matter on  
10 the label, wrapper or carton of any such print, brick or roll, the  
11 statement as to net weight shall be in gothic type not less than  
12 one-quarter of an inch square.



13       The prints, bricks, or rolls referred to in this section shall  
14 be construed to include those prints, bricks, or rolls put up by  
15 the manufacturer or producer; or when put up prior to the order  
16 of the commodity, by the vendor; *provided, however*, that this  
17 section shall not apply to farmers who manufacture and sell their  
18 own butter.

      Sec. 25. Bottles used for the sale of milk or cream shall be  
2 of the capacity of one-half gallon, three pints, one quart, one  
3 pint, one-half pint, and one gill, when filled to within one-fourth  
4 of an inch of the cap seat or stopple in the case of those bottles  
5 having an inside diameter immediately below this cap seat or  
6-7 stopple of over two inches. The following variations  
8 on individual bottles or jars may be allowed, but the  
10 average contents of not less than twenty-five bottles selected  
10 at random from at least four times the number tested must not  
11 be in error more than one-quarter of these tolerances; six drams  
12 above and six drams below on the half gallon, five drams above  
13 and five drams below on the three pints; four drams above and  
14 four drams below on the quart; three drams above and three  
15 drams below on the pint; two drams above and two drams below  
16 on the gill. Bottles or jars used for the sale of milk or cream  
17 shall have clearly blown or otherwise permanently marked in the  
18 side of the bottle, the capacity of the bottle and the word "sealed;"  
19 and the side or bottom of the bottle the name, initial, or trade-  
20 mark of the manufacturer and a designating number, which  
21 designating number shall be different for each manufacturer and  
22 may be used in identifying the bottles. The designating number  
23 shall be furnished by the state commissioner of weights and  
24 measures upon application by the manufacturer, and upon the  
25 filing by the manufacturer of a bond in the sum of one thousand  
26 dollars with sureties to be approved by the attorney general con-  
27 ditioned upon their conformance with the requirements of this  
28 section. A record of the bonds furnished, and the designating  
29 numbers and to whom furnished shall be kept in the office of the  
30 commissioner of weights and measures.

31       Any manufacturer who sells or offers to sell milk or cream  
32 bottles to be used in this state that do not comply as to size and  
33 markings with the provisions of this section shall suffer a penalty of  
34 five hundred dollars, to be recovered by the attorney general in  
35 an action against the defender's bondsmen to be brought in the  
36 name of the state of West Virginia. Any dealer who uses, for the

37 purpose of selling milk or cream, jars or bottles, purchased after  
38 this law takes effect that do not comply with the requirements of  
39 this section as to markings and capacity, shall be deemed guilty  
40 of using a false and insufficient measure.

41 Sealers of weights and measures are not required to seal bot-  
42 tles or jars for milk or cream marked as in this section provided,  
43 but they shall have the power to and shall from time to time make  
44 tests on individual bottles used by various firms in the territory  
45 over which they have jurisdiction in order to ascertain if the  
46 above provisions are being complied with, and they shall immedi-  
47 ately report violations found to the state commissioner of weights  
48 and measures.

Sec. 27. A bushel, half bushel, peck, half peck, quarter peck,  
2 quart and pint of the respective articles hereinafter mentioned  
3 shall be the amount of weight, avoirdupois, as shown by the fol-  
4 lowing table:

## COMMODITY

| COMMODITY                     | Bu. $\frac{1}{2}$ Bu. |                  | Peck |       | $\frac{1}{2}$ Peck |       | $\frac{1}{4}$ Peck |       | Quart |                  | Pint  |                  |
|-------------------------------|-----------------------|------------------|------|-------|--------------------|-------|--------------------|-------|-------|------------------|-------|------------------|
|                               | Lbs.                  | Lbs.             | Lb.  | Oz.   | Lb.                | Oz.   | Lb.                | Oz.   | Lb.   | Oz.              | Lb.   | Oz.              |
| Apples (green).....           | 48                    | 24               | 12   | ..... | 6                  | ..... | 3                  | ..... | 1     | 8                | ..... | 12               |
| Apples (dried).....           | 24                    | 12               | 6    | ..... | 3                  | ..... | 1                  | 8     | ..... | 12               | ..... | 6                |
| Alfalfa Seed.....             | 60                    | 30               | 15   | ..... | 7                  | 8     | 3                  | 12    | 1     | 14               | ..... | 15               |
| Apple Seed.....               | 40                    | 20               | 10   | ..... | 5                  | ..... | 2                  | 8     | 1     | 4                | ..... | 10               |
| Beans (dried, sheel).....     | 60                    | 30               | 15   | ..... | 7                  | 8     | 3                  | 12    | 1     | 14               | ..... | 15               |
| Beans, Castor.....            | 46                    | 23               | 11   | 8     | 5                  | 12    | 2                  | 14    | 1     | 7                | ..... | 11 $\frac{1}{2}$ |
| Beans (unshelled).....        | 38                    | 19               | 9    | 8     | 4                  | 12    | 2                  | 6     | 1     | 3                | ..... | 9 $\frac{1}{2}$  |
| Beans (stringed).....         | 24                    | 12               | 6    | ..... | 3                  | ..... | 1                  | 8     | ..... | 12               | ..... | 6                |
| Beans (limas).....            | 56                    | 28               | 14   | ..... | 7                  | ..... | 3                  | 8     | 1     | 12               | ..... | 14               |
| Beans, Soy.....               | 58                    | 29               | 14   | 8     | 7                  | 4     | 3                  | 10    | 1     | 13               | ..... | 14 $\frac{1}{2}$ |
| Beans, Scarlet Pole.....      | 50                    | 25               | 12   | 8     | 6                  | 4     | 3                  | 2     | 1     | 9                | ..... | 12 $\frac{1}{2}$ |
| Beets.....                    | 56                    | 28               | 14   | ..... | 7                  | ..... | 3                  | 8     | 1     | 12               | ..... | 14               |
| Blackberries.....             | 48                    | 24               | 12   | ..... | 6                  | ..... | 3                  | ..... | 1     | 8                | ..... | 12               |
| Blue Grass Seed.....          | 14                    | 7                | 3    | 8     | 1                  | 12    | .....              | 14    | ..... | 7                | ..... | 3 $\frac{1}{2}$  |
| Blue Grass Seed, English..... | 22                    | 11               | 5    | 8     | 2                  | 12    | 1                  | 6     | ..... | 11               | ..... | 5 $\frac{1}{2}$  |
| Broom Corn Seed.....          | 57                    | 28 $\frac{1}{2}$ | 14   | 4     | 7                  | 2     | 3                  | 9     | 1     | 12 $\frac{1}{2}$ | ..... | 14 $\frac{1}{4}$ |
| Buckwheat.....                | 52                    | 26               | 13   | ..... | 6                  | 8     | 3                  | 4     | 1     | 10               | ..... | 13               |
| Barley.....                   | 48                    | 24               | 12   | ..... | 6                  | ..... | 3                  | ..... | 1     | 8                | ..... | 12               |
| Bran.....                     | 20                    | 10               | 5    | ..... | 2                  | 8     | 1                  | 4     | ..... | 10               | ..... | 5                |
| Cabbage.....                  | 50                    | 25               | 12   | 8     | 6                  | 4     | 3                  | 2     | 1     | 9                | ..... | 12 $\frac{1}{2}$ |
| Canary Seed.....              | 60                    | 30               | 15   | ..... | 7                  | 8     | 3                  | 12    | 1     | 14               | ..... | 15               |
| Carrots.....                  | 50                    | 25               | 12   | 8     | 6                  | 4     | 3                  | 2     | 1     | 9                | ..... | 12 $\frac{1}{2}$ |
| Cement.....                   | 100                   | 50               | 25   | ..... | 12                 | 8     | 6                  | 4     | 3     | 2                | 1     | 10               |

|                               |    |     |    |       |       |       |       |       |       |       |       |       |
|-------------------------------|----|-----|----|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Charcoal.....                 | 20 | 10  | 5  | ..... | 2     | 8     | 1     | 4     | ..... | 10    | ..... | 5     |
| Cherries (with stems).....    | 56 | 28  | 14 | ..... | 7     | ..... | 3     | 8     | ..... | 12    | ..... | 14    |
| Cherries (without stems)..... | 64 | 32  | 16 | ..... | 8     | ..... | 4     | ..... | 1     | ..... | ..... | ..... |
| Chestnuts.....                | 50 | 25  | 12 | 8     | 6     | 4     | 3     | 2     | 1     | 9     | ..... | 12½   |
| Clover Seed.....              | 60 | 30  | 15 | ..... | 7     | 8     | 3     | 12    | 1     | 14    | ..... | 15    |
| Coal.....                     | 80 | 40  | 20 | ..... | 10    | ..... | 5     | ..... | 2     | 8     | 1     | 4     |
| Coke.....                     | 40 | 20  | 10 | ..... | 5     | ..... | 2     | 8     | 1     | 4     | ..... | 10    |
| Corn (cracked).....           | 50 | 25  | 12 | 8     | 6     | 4     | 3     | 2     | 1     | 9     | ..... | 12½   |
| Corn (ear dry).....           | 68 | 34  | 17 | ..... | 8     | 8     | 4     | 4     | 2     | 2     | 1     | 1     |
| Corn (ear green).....         | 72 | 36  | 18 | ..... | 9     | ..... | 4     | 8     | 2     | 4     | 1     | 2     |
| Corn (shelled).....           | 56 | 28  | 14 | ..... | 7     | ..... | 3     | 8     | 1     | 12    | ..... | 14    |
| Corn (sweet).....             | 50 | 25  | 12 | 8     | 6     | 4     | 3     | 2     | 1     | 9     | ..... | 12½   |
| Corn Meal.....                | 48 | 24  | 12 | ..... | 6     | ..... | 3     | ..... | 1     | 8     | ..... | 12    |
| Corn Meal (bolted).....       | 46 | 23  | 11 | 8     | 5     | 12    | 2     | 14    | 1     | 7     | ..... | 11½   |
| Cotton Seed.....              | 32 | 16  | 8  | ..... | 4     | ..... | 2     | ..... | 1     | ..... | ..... | 8     |
| Cotton Seed (S. I.).....      | 44 | 22  | 11 | ..... | 5     | 8     | 2     | 10    | 1     | 6     | ..... | 11    |
| Cranberries.....              | 36 | 18  | 9  | ..... | 4     | 8     | 2     | 4     | 1     | 2     | ..... | 9     |
| Cucumbers (green).....        | 50 | 25  | 12 | 8     | 6     | 4     | 3     | 2     | 1     | 9     | ..... | 12½   |
| Currants.....                 | 40 | 20  | 10 | ..... | 5     | ..... | 2     | 8     | 1     | 4     | ..... | 10    |
| Flax Seed.....                | 56 | 28  | 14 | ..... | 7     | ..... | 3     | 8     | 1     | 12    | ..... | 14    |
| Gooseberries.....             | 40 | 20  | 10 | ..... | 5     | ..... | 2     | 8     | 1     | 4     | ..... | 10    |
| Grapes (with stems).....      | 48 | 24  | 12 | ..... | 6     | ..... | 3     | ..... | 1     | 8     | ..... | 12    |
| Grapes.....                   | 60 | 30  | 15 | ..... | 7     | 8     | 3     | 12    | 1     | 14    | ..... | 15    |
| Hair (washed).....            | 4  | 2   | 1  | ..... | ..... | 8     | ..... | 4     | ..... | 2     | ..... | 1     |
| Hair (unwashed).....          | 8  | 4   | 2  | ..... | 1     | ..... | ..... | 8     | ..... | 4     | ..... | 2     |
| Hemp Seed.....                | 44 | 22  | 11 | ..... | 5     | 8     | 2     | 12    | 1     | 6     | ..... | 11    |
| Herds Grass.....              | 45 | 22½ | 11 | 4     | 5     | 10    | 2     | 13    | 1     | 6½    | ..... | 11½   |
| Hickory Nuts.....             | 50 | 25  | 12 | 8     | 6     | 4     | 3     | 2     | 1     | 9     | ..... | 12½   |

| COMMODITY                 | Bu. ½ Bu. |      | Peck |       | ½ Peck |       | ¼ Peck |       | Quart |       | P nt  |       |
|---------------------------|-----------|------|------|-------|--------|-------|--------|-------|-------|-------|-------|-------|
|                           | Lbs.      | Lbs. | Lb.  | Oz.   | Lb.    | Oz.   | Lb.    | Oz.   | Lb.   | Oz.   | Lb.   | Oz.   |
| Hominy.....               | 60        | 30   | 15   | ..... | 7      | 8     | 3      | 12    | 1     | 14    | ..... | 15    |
| Horse Radish.....         | 50        | 25   | 12   | 8     | 6      | 4     | 3      | 2     | 1     | 9     | ..... | 12½   |
| Huckleberries.....        | 52        | 26   | 13   | ..... | 6      | 8     | 3      | 4     | 1     | 10    | ..... | 13    |
| Hungarian Grass.....      | 50        | 25   | 12   | 8     | 6      | 4     | 3      | 2     | 1     | 9     | ..... | 12½   |
| Kaffir Corn.....          | 56        | 28   | 14   | ..... | 7      | ..... | 3      | 8     | 1     | 12    | ..... | 14    |
| Kale.....                 | 15        | 7    | 8    | ..... | .....  | ..... | .....  | ..... | ..... | ..... | ..... | ..... |
| Lime (unslaked).....      | 70        | 35   | 17   | 8     | 8      | 12    | 4      | 6     | 2     | 3     | 1     | 1½    |
| Lime (slaked).....        | 40        | 20   | 10   | ..... | 5      | ..... | 2      | 8     | 1     | 4     | ..... | 10    |
| Malt.....                 | 34        | 17   | 8    | 8     | 4      | 4     | 2      | 2     | 1     | 1     | ..... | 8½    |
| Millet.....               | 50        | 25   | 12   | 8     | 6      | 4     | 3      | 2     | 1     | 9     | ..... | 12½   |
| Millet (Japan).....       | 35        | 17½  | 8    | 12    | 4      | 6     | 2      | 3     | 1     | 1½    | ..... | 8½    |
| Oats.....                 | 32        | 16   | 8    | ..... | 4      | ..... | 2      | ..... | 1     | ..... | ..... | 8     |
| Onions.....               | 55        | 27½  | 13   | 12    | 6      | 14    | 3      | 7     | 1     | 11½   | ..... | 13½   |
| Onions (bottom sets)..... | 32        | 16   | 8    | ..... | 4      | ..... | 2      | ..... | 1     | ..... | ..... | 8     |
| Onions (top sets).....    | 28        | 14   | 7    | ..... | 3      | 8     | 1      | 12    | ..... | 14    | ..... | 7     |
| Orchard Grass.....        | 14        | 7    | 3    | 8     | 1      | 12    | .....  | 14    | ..... | 7     | ..... | 3½    |
| Osage Orange Seed.....    | 33        | 16½  | 8    | 4     | 4      | 2     | 2      | 1     | 1     | ½     | ..... | 8½    |
| Parsnips.....             | 42        | 21   | 10   | 8     | 5      | 4     | 2      | 10    | 1     | 5     | ..... | 10½   |
| Peaches.....              | 48        | 24   | 12   | ..... | 6      | ..... | 3      | ..... | 1     | 8     | ..... | 12    |
| Peaches (dried).....      | 33        | 16½  | 8    | 4     | 4      | 2     | 2      | 1     | 1     | ½     | ..... | 8½    |
| Peanuts.....              | 23        | 11½  | 5    | 12    | 2      | 14    | 1      | 7     | ..... | 11½   | ..... | 5½    |
| Pears.....                | 50        | 25   | 12   | 8     | 6      | 4     | 3      | 2     | 1     | 9     | ..... | 12½   |
| Peas (dry).....           | 60        | 30   | 15   | ..... | 7      | 8     | 3      | 12    | 1     | 14    | ..... | 15    |

|                              |     |     |    |      |    |      |      |      |      |     |      |      |
|------------------------------|-----|-----|----|------|----|------|------|------|------|-----|------|------|
| Peas (green, shelled).....   | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | 12½  |
| Peas (green, unshelled)..... | 30  | 15  | 7  | 8    | 3  | 12   | 1    | 14   | .... | 15  | .... | 7½   |
| Peas (wrinkled).....         | 56  | 28  | 14 | .... | 7  | .... | 3    | 8    | 1    | 12  | .... | 14   |
| Plums.....                   | 60  | 30  | 15 | .... | 7  | 8    | 3    | 12   | 1    | 14  | .... | 15   |
| Potatoes (Irish).....        | 60  | 30  | 15 | .... | 7  | 8    | 3    | 12   | 1    | 14  | .... | 15   |
| Potatoes (sweet).....        | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | 12½  |
| Quinces.....                 | 48  | 24  | 12 | .... | 6  | .... | 3    | .... | 1    | 8   | .... | 12   |
| Rape Seed.....               | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | 12½  |
| Raspberries.....             | 48  | 24  | 12 | .... | 6  | .... | 3    | .... | 1    | 8   | .... | 12   |
| Red Top Grass Seed.....      | 14  | 7   | 3  | 8    | 1  | 12   | .... | 14   | .... | 7   | .... | 3½   |
| Rice Corn (shelled).....     | 56  | 28  | 14 | .... | 7  | .... | 3    | 8    | 1    | 12  | .... | 14   |
| Rice Corn (unshelled).....   | 45  | 22½ | 11 | 4    | 5  | 10   | 2    | 13   | 1    | 6½  | .... | 11¼  |
| Rutabagas.....               | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | ½    |
| Rye.....                     | 56  | 28  | 14 | .... | 7  | .... | 3    | 8    | 1    | 12  | .... | 11½  |
| Rye Meal.....                | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | 42½  |
| Salt (finese).....           | 70  | 35  | 17 | 8    | 8  | 12   | 4    | 6    | 2    | 3   | .... | 4    |
| Santl (....).....            | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | .... |
| Stad.....                    | 130 | 65  | 32 | 8    | 16 | 4    | 8    | 2    | 4    | 1   | .... | .... |
| Sorlts.....                  | 20  | 10  | 5  | .... | 2  | 8    | 1    | 4    | .... | 10  | .... | 41½  |
| Sorghum Seed.....            | 57  | 28½ | 14 | 4    | 7  | 2    | 3    | 9    | 1    | 12½ | .... | 1    |
| Spelhor Spetzo.....          | 40  | 20  | 10 | .... | 5  | .... | 2    | 8    | 1    | 4   | .... | 1    |
| Spinach.....                 | 30  | 15  | 7  | 8    | 3  | 12   | 1    | 14   | .... | 15  | .... | 1¼   |
| Strawberries.....            | 48  | 24  | 12 | .... | 6  | .... | 3    | .... | 1    | 8   | .... | 14   |
| Timothy Seaed.....           | 45  | 22½ | 11 | 4    | 5  | 10   | 2    | 13   | 1    | 6½  | .... | 20¼  |
| Tomatoes.....                | 56  | 28  | 14 | .... | 7  | .... | 3    | 8    | 1    | 12  | .... | ½    |
| Turnipsc.....                | 55  | 27½ | 13 | 12   | 6  | 14   | 3    | 7    | 1    | 11½ | .... | 7½   |
| Walnuts.....                 | 50  | 25  | 12 | 8    | 6  | 4    | 3    | 2    | 1    | 9   | .... | 2½   |
| Wheat.....                   | 60  | 30  | 15 | .... | 7  | 8    | 3    | 12   | 1    | 14  | .... | 15   |

5 dollars shall hold the accused for indictment to the grand jury.

Sec. 31. The word "person" as used in this act, shall be construed to impart the plural and singular, as the case demands, and shall include corporations, companies, societies and associations.

The words "weights, measures or weighing or measuring devices" as used in this act, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

The words "sell" or "sale" as used in this act shall be construed to include barter and exchange.

Sec. 32. "Doyle and Scribner's combined rules" for the measurement of logs, lumber and timber of all kinds, is hereby established as the lawful rule in this state for the measurement of all kinds of lumber, logs and timber, unless some other rule be agreed to.

One barrel of flour shall contain one hundred and ninety-six pounds, one-half barrel ninety-eight pounds, one-quarter barrel forty-nine pounds, and one-eighth barrel twenty-four and one-half pounds, one-sixteenth barrel twelve and one-quarter pounds, net weight.

One barrel of lime shall contain two hundred pounds.

A ton shall contain two thousand pounds.

The standard barrel for fruit, vegetables and produce shall be of the following dimensions: Inside staves at ends, seventeen and one-eighth inches; distance between heads, inside, twenty-six inches; circumference over bilge, sixty-four inches; and capacity, seven thousand and fifty-six cubic inches.

Sec. 30. Justices of the peace shall have jurisdiction to hear and determine any action which may be brought for a violation of the provisions of this act, where the property in question is two hundred dollars and less. In cases of over two hundred

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## House Bill No. 115

AN ACT to amend and re-enact section thirteen of chapter ninety-three of the acts of the legislature of one thousand nine hundred and seventeen, amending and re-enacting section thirteen of chap-

ter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salary of county officers; section one of chapter one hundred and ninety-eight of the acts of the legislature of one thousand eight hundred and seventy-two, relating to the annual settlements of certain county officers; section eight of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salary of certain county officers.

*Be it enacted by the Legislature of West Virginia:*

That section thirteen of chapter ninety-three of the acts of the legislature of one thousand nine hundred and seventeen, amending and re-enacting section thirteen of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salary of county officers; section one, of chapter one hundred and ninety-eight, of the acts of the legislature of one thousand eight hundred and seventy-two, relating to annual settlements of certain county officers, and section eight, of chapter eighty-three, of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salary of county officers, be amended and re-enacted so as to read as follows:

Section 13. The county court, or tribunal in lieu thereof, of every county shall, in addition to the compensation and salary herein provided, allow to the sheriff for keeping and feeding prisoners, as provided by law, the sum of sixty cents per day; *provided, however*, that in any county where the prisoners do not exceed five in number the county court may allow a sum not to exceed seventy-five cents per day; and an additional ten cents per day shall be allowed to the sheriff for each day a person is actually worked on the public road under sentence of any court having jurisdiction; and said court shall allow the actual and necessary expense incurred or expended in arresting, pursuing or transporting persons accused of or convicted of crime and offenses, and in conveying or transferring to or from any state institution to which any person may be committed from his county where, by law, the sheriff is authorized to convey or transfer such persons, and may allow the actual and necessary thereof, and the judge or judges of the circuit, criminal, common pleas or intermediate courts; *provided, however*, any taxpayer feeling aggrieved at the allowance made by the county court to the sheriff and any sheriff feeling that the business of his office cannot be conducted properly by the maximum allowance by the county



35 court for office expenditures, or the number of deputies and their  
36 salaries, shall be allowed the right of appeal to the circuit court of  
37 such county for the purpose of determining the equity of such  
38-39 maximum allowance.

40 The officers herein named shall appoint and employ such dep-  
41 uties, assistants and other employees in the manner provided by  
42 law as may be necessary for their respective offices and fix their  
43 compensation, and shall file with the clerk of the county court or  
44 other tribunal in lieu thereof, a statement in writing showing  
45 such action and setting forth the name of each deputy, assistant  
46 and employee the time for which employed and the monthly com-  
47 pensation; but the compensation for all deputies, assistants and  
48 other employees shall not exceed in the aggregate for each office, the  
49 amount so fixed for that office as hereinbefore provided. The com-  
50 pensation of the sheriff, clerk of county court, clerk of the circuit  
51 court (criminal, common pleas or intermediate courts), and  
52 prosecuting attorney and the compensation of their deputies, as-  
53 sistants and other employees, duly appointed or employed, after  
54 being so fixed, shall be paid monthly in the manner provided by  
55-56 law to those entitled to same out of the county  
57-67 fund. The county court (or other tribunal in lieu thereof), after  
68 filing of the statement provided for by this section, showing  
69 names of the deputies, assistants and other employees, the time  
70 for which employed and their compensation may, by order of rec-  
71 ord, authorize and direct orders or drafts on the treasurer, paya-  
72 ble out of the general county fund, to be drawn in favor of the  
73 officer, his deputy, assistant, or employee named in such  
74 statement, in payment of the monthly salary to which  
75-77 such officer is entitled, and when such order has been entered of  
78 record, the president and clerk of the county court (or other  
79 tribunal in lieu thereof) shall be authorized to sign such  
79-a orders and drafts, for the purposes aforesaid; *provided, however,*  
80 that no orders shall be issued to the officer or deputy, assistant or  
81 other employees until the officer has filed a detailed monthly state-  
82 ment with the county treasurer and has filed with the county clerk  
83 a duplicate copy thereof, together with a receipt from the county  
84 treasurer, showing that he has paid into the county treasury all  
85 fees, costs, percentages, commissions, allowances, compensation, in-  
86 come and all other perquisites of whatever kind that have been col-  
87 lected during said month, as shown by said statement. The offi-  
88 cers herein named shall have authority to discharge any deputy,

89 assistant or other employee, by filing with the clerk of the county  
90 court or tribunal in lieu thereof, a statement in writing showing  
91 such action. All statements required to be filed by this section,  
92 shall be verified by the affidavit of the person making them, and  
93 among other things contained in the affidavit shall be the state-  
94 ment that the amounts shown therein were the amounts actually  
95 paid or intended to be paid to the deputies, assistants, or other  
96 employees; that no rebates, agreement, understanding and expect-  
97 tation that any part thereof shall be repaid to him, and that noth-  
98 ing has heretofore been paid or promised him on that account, and  
99 that if he shall thereafter receive any money, or thing of value, on  
100 account thereof, he will account for and pay the same to the coun-  
101 ty. Until the statements required by this section have been filed,  
102 no allowances or payments shall be made to any officer for depu-  
103 ties, assistants or other employees.  
104 All acts or parts of acts in conflict herewith or inconsistent  
105 herewith are hereby repealed.

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## House Bill No. 249

AN ACT fixing the annual allowance to the clerk of the county court  
of McDowell county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of McDowell county shall an-  
nually allow to the clerk of the county court of said county, the  
sum of not less than two thousand four hundred dollars and not  
more than four thousand dollars, for his public services, for which  
no other fee or reward is allowed by law.

All acts or parts of acts in conflict herewith are hereby re-  
pealed.

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## House Bill No. 261

AN ACT allowing counties of more than eighty thousand population  
to lay a special levy to purchase land and erect a jail and jailer's  
residence thereon.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That in counties having more than eighty thou-

2 sand population as shown by the last preceding census taken by  
3 the United States Government the county court may, for any  
4 three consecutive years, for the sole purpose of purchasing land,  
5 by condemnation or otherwise, and erecting a jail and jailer's  
6 residence thereon, lay a special levy not exceeding ten cents in  
7 any one year on the one hundred dollars valuation on the taxable  
8 property in such county under the provisions of the constitution  
9 and laws of this state.

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## House Bill No. 288

AN ACT to amend and re-enact section nine of chapter twenty-eight  
of the acts of one thousand nine hundred and nine, relating to the  
intermediate court of Kanawha county.

*Be it enacted by the Legislature of West Virginia:*

That section nine of chapter twenty-eight of the acts of one thousand  
nine hundred and nine be amended and re-enacted so as to read as  
follows:

Section 9. The said judge of the intermediate court of  
2 Kanawha county shall, for his services, receive a salary of five  
3 thousand dollars per annum, to be paid out of the county treasury  
4 of said county, to commence from the first day of January one  
5 thousand nine hundred and nineteen.

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## House Bill No. 143

AN ACT to authorize the creation of a commission for the purpose  
of reporting to the legislature on the question of compiling and  
keeping records of the enlistment and service of citizens of West  
Virginia in any branch of the naval or military forces of the  
United States or countries of the Allies during the world war or  
in any charitable, humane or relief organization connected with  
the operations of such forces, and of providing and erecting tab-  
lets, or memorial buildings as memorials to those of them who  
have died in such service or in any such organization.

*Be it enacted by the Legislature of West Virginia:*

That, in order to render just tribute to citizens of West Virginia  
who have served in any branch of the naval or military forces of the

United States or those of the Allies during the world war or in any charitable, humane or relief organization connected with the operations of such forces, and to perpetuate the memory of those who have died in such service or in any such organization, whether on the field of battle or elsewhere, the governor of this state hereby is authorized, empowered and directed to select such number of representative citizens of West Virginia as he shall think advisable, who, with himself, shall constitute a commission for the purposes hereinafter declared. The members of such commission shall serve and discharge their duties without cost or charge to the state, and the governor shall be the chairman and have direction thereof.

Said commission shall take under consideration and report in writing to the next session of the legislature on the following matters and things:

What records should be compiled, kept and preserved in each county of the state of the enlistment and service of citizens of such county in any branch of the naval or military forces of the United States or those of the Allies during the world war or in any charitable, humane or relief organization connected with the operations of such forces.

What tablets, monuments or memorial buildings have been or should be erected or provided in each county as a memorial to the citizens therefrom who have died in such service or in any such organization.

What records have been or should be compiled, kept and preserved by the state of West Virginia of the enlistment and service of its citizens in any branch of such naval or military forces or in any such organization.

What tablets, monuments or memorial buildings have been or should be erected or provided by the state of West Virginia as a memorial to its citizens who have died in such service or in any such organization.

Said commission shall include in its report any and all matters and things which it may think pertinent to any of the foregoing inquiries.

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## House Bill No. 34

AN ACT to amend and re-enact section three of chapter sixty of the code, as amended by chapter thirty-one of the acts of the legislature of West Virginia of the regular session of one thousand nine hundred and seventeen.

*Be it enacted by the Legislature of the State of West Virginia:*

That section three of chapter sixty of the code, as amended by chapter thirty-one of the acts of the legislature of the regular session of the year one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 3. If any horses, mules, ass, jennet, cattle, sheep, hogs, goats shall enter into any grounds enclosed by a lawful fence, the owner or manager of such animal shall be liable to the owner of such grounds for any damage he may sustain thereby. It shall be unlawful for any such animal to run at large on any public road or highway or railroad right of way in this state and should such stock while running at large destroy or injure the property of another, the owner shall be guilty of a misdemeanor and fined not less than five dollars and not more than ten dollars, and shall pay to the party whose property shall have been injured or destroyed, the amount of damages sustained by him by reason of such destruction or injury. And the party so injured, may, if he find such stock on his premises, retain them, or a sufficient number thereof, until said damages and costs of keeping be paid.

All acts or parts of acts in conflict herewith or inconsistent herewith are hereby repealed.

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## House Bill No. 171

AN ACT to amend and re-enact sections seventy-seven, seventy-eight, seventy-eight-a (7) and seventy-nine-a (1) of chapter fifty-four of Barnes' code of one thousand nine hundred and sixteen, and add to said chapter sections seventy-nine-a (7), seventy-nine-a (8), seventy-nine-a (9), seventy-nine-a (10), seventy-nine-a (11) and seventy-nine-a (12); all relating to banking.

*Be it enacted by the Legislature of West Virginia:*

That sections seventy-seven, seventy-eight, seventy-eight-a (7), and seventy-nine-a (1) of chapter fifty-four of Barnes' code of one thousand nine hundred and sixteen be and the same are hereby amended and re-enacted; and said chapter be further amended by adding thereto sections seventy-nine-a (7), seventy-nine-a (8), seventy-nine-a (9), seventy-nine-a (10), seventy-nine-a (11) and sev-

enty-nine-a (12); all relating to the subject of banking, and to read as follows:

Section 77. The capital stock of every banking institution formed under the provisions of this chapter shall not be less than twenty-five thousand dollars.

Said stock shall be divided into shares of the par value of one hundred dollars each; such shares shall be deemed personal property and transferable on the books of the association in such manner as may be prescribed in the by-laws of the association.

Sec. 78. Every such bank may exercise, under the laws of this state, all such incidental powers as may be necessary to carry on the business of banking, by discounting promissory notes, negotiating drafts, bills of exchange and other evidences of indebtedness, receiving deposits, buying and selling exchange, bank notes, bullion or coin, and by loaning money on personal or other security. Any banking institution may accept for payment at a future date drafts drawn upon it by its customers, and to issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents, at sight or on time, not exceeding one year. It shall be unlawful for any individual or association of individuals doing business in this state to use in connection with such business the term "bank," "banker," "banking company," or "trust company," or receive deposits, or sell foreign exchange, until they shall have taken out a charter and complied with the statutes governing banks and trust companies. Hereafter no charter shall be issued to any bank to do business in this state until the application therefor has been approved in writing by the commissioner of banking; and no real estate shall be carried upon the books of any bank at a value greater than the assessed value as shown by the land books of the county wherein such real estate is assessed. No bank shall hold or convey real estate except for the following purposes:

(1) Such as shall be necessary for its immediate accommodation in the transaction of its business.

(2) Such as shall be mortgaged to it in good faith by way of security for debts contracted.

(3) Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(4) Such as it shall purchase at sales under judgments, decrees, deeds of trust or mortgages, held by the association, or

32 shall purchase to secure debts due to it, which it shall dispose  
33 of at the earliest practicable date. Any person violating the  
34 provisions of this section shall be deemed guilty of a misdemeanor,  
35 and on conviction thereof shall be fined not less than five hun-  
36 dred dollars nor more than one thousand dollars, or be confined  
37 in the county jail for a period not exceeding six months, or both,  
38 at the discretion of the court, for each and every offense.

Sec. 78-a (7). At least twice in every year the commissioner  
2 of banking, either in person or by competent assistant, shall make  
3 a thorough examination of the books and affairs of every asso-  
4 ciation mentioned in the next preceding section of this act. He  
5 shall carefully examine all notes and mortgages and all other  
6 assets of the concern, and shall ascertain the full amount of its  
7 liabilities. He shall see that the books are kept properly posted  
8 and balanced, and that complete trial balances are struck at regu-  
9 lar intervals. Whenever it shall appear to the commissioner of  
10 banking that any institution which by law is required to obtain  
11 from him a certificate, or permit, to begin business, does not keep  
12 its books and accounts in such manner as to enable him readily  
13 to ascertain its true condition, he may issue an order requiring  
14 such institution, or the officers thereof or any of them, to open  
15 and keep such books or accounts as he may, in his discretion, de-  
16 termine and prescribe for the purpose of keeping accurate and  
17 convenient records of the transactions and accounts of such in-  
18 stitution; and the expense thereof shall be paid by said institution.  
19 Every bank shall preserve all its records of final entry, including  
20 cards used under the card system and deposit tickets, for a period  
21 of at least six years from the date of making the same or from the  
22 date of the last entry thereon. Each official communication di-  
23 rected by the commissioner of banking or one of his assistants  
24 to a bank or to any officer thereof, relating to an examination or  
25 investigation conducted by the banking department or containing  
26 suggestions or recommendations as to the conduct of the business  
27 of the bank, shall be submitted, by the officer receiving it, to the  
28 board of directors at the next meeting of such board, and duly  
29 noted in the minutes of the meetings of such board. If at any  
30 time he shall find one of these institutions in an insolvent con-  
31 dition, he shall deal with it according to the manner prescribed  
32 in section eighty-one-a (7) of this act.

*Limit on Loans; Amortization of Securities.*

Sec. 79-a (1). The total liabilities to any bank or trust com-

2 pany of any person, or of any company, corporation or firm, for  
3 money borrowed, including the liabilities of the company or firm,  
4 the liabilities of the several members thereof, shall at no time  
5 exceed twenty per centum of the capital stock, plus the surplus  
6 fund and undivided profits. But the discount of bills of exchange  
7 drawn in good faith against actually existing values, and the dis-  
8 count of commercial or business paper actually owned by the  
9 person negotiating the same, shall not be considered as money  
10 borrowed. The corporation mentioned in this section shall not be  
11 construed to mean municipal corporations, districts or counties.  
12 The stocks, bonds and other interest-bearing securities purchased  
13 by a bank shall be entered on its books at the actual cost thereof,  
14 and for the purpose of calculating the undivided profits applicable  
15 to the payment of dividends, such stocks and securities shall not  
16 be estimated at a valuation exceeding their present cost as de-  
17 termined by amortization, that is, by deducting from the cost of  
18 any such stock or security purchased for a sum in excess of the  
19 amount payable thereon at maturity, and charging to profit and  
20 loss, a sufficient sum to bring it to par at maturity, or adding to  
21 the cost of any such stock or security purchased at less than the  
22 amount payable thereon at maturity, and crediting to profit and  
23 loss, a sufficient sum to bring it to par at maturity; but nothing  
24 herein contained shall prevent a bank from carrying such stocks,  
25 bonds and other interest-bearing corporate securities on its books at  
26 their market value. No officer, director, clerk or other employee  
27 of any bank shall borrow, directly or indirectly, from the bank  
28 with which he is connected, any sum of money without the written  
29 approval of a majority of the board of directors or discount com-  
30 mittee thereof filed in the office of the bank or embodied in a  
31 resolution adopted by a majority vote of such board exclusive of  
32 the director to whom the loan is made. If an officer, director,  
33 clerk or other employee of any bank shall own or control a ma-  
34 jority of the stock of any other corporation a loan to that corpo-  
35 ration shall be considered for the purpose of this sub-division as  
36 a loan to such officer, director, clerk or other employee.

Sec. 79-a (7). When any deposit shall be made by any  
2 person describing himself in making such deposit as trustee for  
3 another and no other or further notice of the existence and terms  
4 of a legal and valid trust than such description shall have been  
5 given in writing to the bank; in the event of the death of the



6 person so described as trustee, such deposit or any part thereof,  
7 together with the dividends or interest thereon, may be paid to  
8 the person for whom the deposit was thus stated to have been  
9 made. When a deposit shall have been made by any person in  
10 the name of such depositor and another person and in form to  
11 be paid to either, or the survivor of them, such deposit thereupon  
12 and any additions thereto made, by either of such persons, upon  
13 the making thereof, shall become the property of such persons as  
14 joint tenants, and the same, together with all interest thereon,  
15 shall be held for the exclusive use of the persons so named, and  
16 may be paid to either during the life-time of both, or to the sur-  
17 vivor after the death of one of them; and such payment and the  
18 receipt or the acquittance of the one to whom such payment is  
19 made, shall be a valid and sufficient release and discharge to said  
20 bank, for all payments made on account of such deposit prior to  
21 the receipt by said bank of notice in writing signed by any one  
22 of such joint tenants, not to pay such deposit in accordance with  
23 the terms thereof.

Sec. 79-a (8). Any person who shall wilfully and maliciously  
2 make, circulate or transmit to another or others, any false state-  
3 ment, rumor or suggestion, written, printed or by word of mouth,  
4 which is directly or by inference derogatory to the financial condi-  
5 tion or affects the solvency or financial standing of any bank, sav-  
6 ings bank, banking institution or trust company doing business in  
7 this state, or who shall counsel, aid, procure or induce another to  
8 start, transmit, or circulate any such statement or rumor, shall  
9 be guilty of a misdemeanor, and upon conviction thereof, shall  
10 be punished by a fine of not more than one thousand dollars or  
11 imprisoned in the county jail not more than one year, or both, in  
12 the discretion of the court.

Sec. 79-a (9). No bank which has paid and charged to the  
2 account of a depositor any money on a forged or raised check  
3 issued in the name of said depositor shall be liable to said de-  
4 positor for the amount paid thereon unless either (1) within one  
5 year from notice to said depositor that the vouchers representing  
6 payments charged to the account of said depositor for the period  
7 during which such payment was made are ready for delivery, or  
8 (2) in case no such notice has been given, within one year after  
9 the return to said depositor of the voucher representing such pay-  
10 ment, said depositor shall notify the bank that the check so paid

11 is forged or raised. The notice referred to may be given by mail  
12 to said depositor at his last known address with postage prepaid.  
13 No bank shall be liable to a depositor because of the non-payment  
14 through mistake or error and without malice of a check which  
15 should have been paid unless the depositor shall allege and prove  
16 actual damage by reason of such non-payment and in such event  
17 the liability shall not exceed the amount of damage so proved.

Sec. 79-a (10). Nothing in any law of this state shall in any  
2 manner whatsoever affect the validity of, or render void or void-  
3 able, the payment, certification or acceptance of a check or other  
4 negotiable instrument or any other transaction by a bank in this  
5 state because done or performed on any Saturday between twelve  
6 o'clock noon and midnight; *provided*, such payment, certification,  
7 acceptance, or other transaction would be valid if done or per-  
8 formed before twelve o'clock noon on such Saturday; *provided*,  
9 *further*, that nothing herein shall be construed to compel any bank  
10 in this state, which by law or custom is entitled to close at twelve  
11 o'clock noon on any Saturday, to keep open for the transaction  
12 of business or to perform any of the acts or transactions afore-  
13 said, on any Saturday after such hour except at its own option.

Sec. 79-a (11). The words "federal reserve act," as herein  
2 used, shall be held to mean and to include the act of congress of  
3 the United States approved December twenty-three, one thousand  
4 nine hundred and thirteen, as heretofore and hereafter amended.  
5 The words "federal reserve board" shall be held to mean the fed-  
6 eral reserve board created and described in the federal reserve  
7 act. The words "federal reserve bank" shall be held to mean  
8 the federal reserve banks created and organized under the authority  
9 of the federal reserve act. The words "member bank" shall be  
10 held to mean any national bank, state bank or banking and trust  
11 company which has become or which becomes a member of one  
12 of the federal reserve banks created by the federal reserve act.  
13 That any bank or trust company incorporated under the laws of  
14 this state shall have the power to subscribe to the capital stock  
15 and become a member of a federal reserve bank. Any bank or  
16 trust company incorporated under the laws of this state which is,  
17 or which becomes, a member of a federal reserve bank is vested  
18 with all powers conferred upon member banks of the federal  
19 reserve banks by the terms of the federal reserve act as fully and  
20 completely as if such powers were specifically enumerated and  
21 described herein, and all such powers shall be exercised subject

22 to all restrictions and limitations imposed by the federal reserve  
23 act, or by regulations of the federal reserve board made pursuant  
24 thereto. The right, however, is expressly reserved to revoke or  
25 to amend the powers therein conferred. A compliance on the part  
26 of any such bank or trust company with the reserve requirements  
27 of the federal reserve act shall be held to be a full compliance  
28 with those provisions of the laws of this state which require banks  
29 or trust companies to maintain cash balances in their vaults or  
30 with other banks, and no such bank or trust company shall be  
31 required to carry or maintain reserve other than such as is re-  
32 quired under the terms of the federal reserve act. Any such bank  
33 or trust company shall continue to be subject to the supervision  
34 and examinations required by the laws of this state, except that  
35 the federal reserve board shall have the right, if it deems necessary,  
36 to make examinations; and the authorities of this state having  
37 supervision over such bank or trust company may disclose to the  
38 federal reserve board, or to examiners duly appointed by it, all  
39 information in reference to the affairs of any bank or trust com-  
40 pany which has become, or desires to become, a member of a  
41 federal reserve bank.

Sec. 79-a (12). It shall be lawful for any notary public  
2 who is a stockholder, director, officer or employe of a bank or  
3 other corporation to take the acknowledgment of any party to  
4 any written instrument executed to or by such corporation, or  
5 to administer an oath to any other stockholder, director, officer,  
6 employe or agent of such corporation, or to protest for non-  
7 acceptance or non-payment bills of exchange, drafts, checks, notes  
8 and other negotiable instruments which may be owned or held  
9 for collection by such corporation; *provided*, it shall be unlawful  
10 for any notary public to take the acknowledgment of an instru-  
11 ment by or to a bank or other corporation of which he is a stock-  
12 holder, director, officer, or employe, where such notary is a party  
13 to such instrument, either individually or as a representative of  
14 such corporation, or to protest any negotiable instrument owned  
15 or held for collection by such corporation, where such notary is  
16 individually a party to such instrument.

# House Bill No. 279

AN ACT to authorize the county court of the county of McDowell to establish and maintain a county law library.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of the county of McDowell be and the said county court of McDowell county is hereby authorized to establish and maintain a law library for the use of the judges of the courts of said county, all attorneys at law practicing in said court, and all public officers of said county, or any subdivision thereof, or municipality therein. Said library shall be known and designated as "The McDowell County Law Library," and shall be located at such place as the county court may designate in the town of Welch, in said county.

Sec. 2. The said county court of the county of McDowell may, within its discretion, purchase law books, law periodicals, stationery, supplies, furniture and equipment for said library, and for said purpose shall have authority to expend money; *provided, however,* that the cost of establishing said library shall not exceed the sum of ten thousand dollars, and the maintenance thereof shall not exceed the sum of one thousand five hundred dollars per year thereafter.

Sec. 3. The said county court may, within its discretion, appoint a committee of three lawyers to purchase said library, one of whom shall be the judge of the circuit court of said county, and no law books shall be purchased for said library except upon the order of the said committee; and the said committee shall have power to make and enforce all rules and regulations as may be deemed necessary for the government of the said library, and the use thereof.

Sec. 4. As soon as practicable after any new volume of the reports of the supreme court of appeals of West Virginia, as well as the bound volumes of the acts of the legislature have been printed, the officers charged with the distribution of the said reports and said acts shall deliver one copy of each to said library. And the said board of commissioners shall have authority to receive for said library any books or other property by loan, gift or bequest.

# House Bill No. 96

AN ACT authorizing the board of education of Town district, Raleigh county, West Virginia, to lay a special levy for the years one thousand nine hundred and nineteen and one thousand nine hundred and twenty, for the purpose of securing sufficient funds to finish the construction of a public school building in the city of Beckley, in said Town district.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of Town district, Raleigh county, West Virginia, is hereby authorized, in the years one thousand nine hundred and nineteen and one thousand nine hundred and twenty, to lay a special levy not to exceed ninety-five cents on the one hundred dollars valuation of all property situate in said district, to pay for the completion of a public school building in the city of Beckley, Raleigh county, West Virginia, now in the course of construction.

Sec. 2. Such levies shall be assessed and collected as otherwise provided by law and the proceeds of the same shall be used for the purpose set forth in section one of this act, and for no other.

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# House Bill No. 60

AN ACT to amend and re-enact sections twelve, thirteen, nineteen and twenty, of chapter one hundred and thirty-seven, of the code of West Virginia, Hogg's one thousand nine hundred and thirteen edition, relating to fees of officers.

*Be it enacted by the Legislature of West Virginia:*

That sections twelve, thirteen, nineteen and twenty, of chapter one hundred and thirty-seven of the code of West Virginia (Hogg's one thousand nine hundred and thirteen edition), be, and the same are hereby, amended and re-enacted so as to read as follows:

Section 12. Every justice of the peace shall be entitled to

|   |  |        |
|---|--|--------|
| 2 | charge and receive the following fees in civil cases, viz: |        |
| 3 | For summons to commence a suit.....                        | \$ .30 |
| 4 | For every copy thereof.....                                | .15    |
| 5 | For every additional summons in same action.....           | .30    |
| 6 | For a copy thereof.....                                    | .15    |
| 7 | For docketing an action commenced by appearance and        |        |

|    |   |      |
|----|---|------|
| 8  | agreement .....   | .30  |
| 9  | For issuing order of arrest, order of commitment, or order      |      |
| 10 | of attachment .....   | .30  |
| 11 | For every subpoena for witness.....                             | .15  |
| 12 | For order of arrest against delinquent witnesses or jurors,     |      |
| 13 | or in any case of contempt, and for the trial and judg-         |      |
| 14 | ment of such case.....  | .75  |
| 15 | For swearing each witness, arbitrator or party.....             | .05  |
| 16 | For taking and certifying any affidavit in writing.....         | .25  |
| 17 | For every continuance.....                                      | .20  |
| 18 | For appointing a guardian for the suit of an infant plaintiff   |      |
| 19 | or defendant .....  | .20  |
| 20 | For appointing special constables at request of either party.   | .25  |
| 21 | For settling and allowing interrogatories.....                  | .25  |
| 22 | For entering agreement for arbitration.....                     | .25  |
| 23 | For summons of arbitrators.....                                 | .30  |
| 24 | For every bond filed in the suit.....                           | .25  |
| 25 | For venire for jury, including the drawing for the same....     | .25  |
| 26 | For trying a case.....  | 1.00 |
| 27 | For entering judgment.....                                      | .25  |
| 28 | For abstract of judgment for docketing in the office of the     |      |
| 29 | clerk of the county court.....                                  | .25  |
| 30 | For transferring a judgment on docket.....                      | .25  |
| 31 | For entering satisfaction of judgment.....                      | .15  |
| 32 | For issuing execution and entering return thereof on his        |      |
| 33 | docket .....  | .50  |
| 34 | For issuing every additional execution.....                     | .25  |
| 35 | For entering stay of execution.....                             | .25  |
| 36 | For trying right of property levied on or attached.....         | 1.00 |
| 37 | For taxing costs.....   | .25  |
| 38 | For every process or order not otherwise provided for.....      | .30  |
| 39 | For transcript from docket, and other writings and copies       |      |
| 40 | not otherwise provided for.....                                 | .50  |
| 41 | For transmitting or delivering papers to the clerk of the       |      |
| 42 | circuit court in case of an appeal.....                         | .50  |
| 43 | For taking and certifying acknowledgment of deed or other       |      |
| 44 | instrument of writing.....                                      | .25  |
| 45 | For taking depositions of witnesses, if done in an hour or less | .75  |
| 46 | If not done in an hour for additional time at the rate, per     |      |
| 47 | hour of .....   | .75  |
| 48 | For taking an inquest on a dead body, to be audited and paid    |      |

49 from the treasury of the county..... 5.00

Sec. 13. Every constable shall be entitled to charge and re-  
 2 ceive the following fees: For removing a person by virtue of war-  
 3 rant issued under the thirteenth section of chapter forty-six to be  
 4 charged to the county court of the county, five cents for each mile  
 5 of necessary travel, going and returning; for service and return of  
 5-a summons to commence a suit and for every additional summons,  
 6 seventy-five cents; for serving and returning order of attachment,  
 7 fifty cents for each garnishee summoned, and one dollar for  
 8 taking property, including inventory and appraisement, besides  
 9 the reasonable expenses of removing, securing and keeping the  
 10 property attached; for subpoenas, for each person served there-  
 11 with, twenty-five cents; for summoning a jury and return of  
 12 venire, one dollar and fifty cents; for levying an execution on  
 13 personal property and return, one dollar; for posting notices of  
 14 sale, forty cents; for money made under execution or attachment  
 15 and paid to the party entitled thereto, five per cent; for serving  
 16 and returning other writs and notices not specified in this section,  
 17 each seventy-five cents; for executing a writ of possession under  
 18 section two hundred and thirty-five of chapter fifty, two dollars;  
 19 for summoning the jury and witnesses for inquest on a dead body,  
 20 to be audited and paid from the treasury of the county, three  
 21 dollars; for services not otherwise provided for the same fees as  
 22 sheriff for similar cases.

Sec. 19. Every justice shall be entitled to the following fees  
 2 in criminal cases and proceedings before him, to be charged and  
 3 recovered as provided by the two hundred and twenty-seventh and  
 4 two hundred and twenty-ninth sections of chapter fifty.

5 For every recognizance or bond to keep the peace, or be of  
 6 good behavior .....\$ .50

7 For every warrant of arrest or commitment..... .50

8 For docketing case on return of warrant of arrest executed.. .30

9 For all services rendered at the instance of the defendant, the  
 10 same fees shall be charged as are allowed for similar services in  
 11 civil cases.

12 For trial .....\$1.00

13 For every subpoena for one or more witnesses..... .15

14 For every copy thereof..... .10

15 For every warrant to summon a jury..... .25

16 For swearing a jury..... .25

17 For swearing witnesses, each..... .05

|    |  |      |
|----|--|------|
| 18 | For entering his judgment on his docket, and taxing the            |      |
| 19 | costs .....  | .50  |
| 20 | For issuing execution, and entering return thereof.....            | .50  |
| 21 | For granting an appeal, including taking the bond or recog-        |      |
| 22 | nizance, making and certifying a transcript of his docket          |      |
| 23 | and transmitting the same and the papers in the case to            |      |
| 24 | the clerk of the circuit court, ten cents per hundred              |      |
| 25 | words, or in lieu thereof a specified fee of.....                  | 1.00 |
| 26 | In all other cases the fees allowed in civil cases by law to other |      |
| 27 | county officers for similar services.                              |      |

|   |  |      |
|---|--|------|
| Sec. 20. A justice shall be entitled in cases not otherwise |  |      |
| 2   | provided for to the following fees, which shall be audited and |      |
| 3   | paid by the county court as other claims against the county.   |      |
| 4   | For warrant to arrest the person or persons accused, and take  |      |
| 5   | him before a justice for examination, including the sum-       |      |
| 6   | moning of witnesses.....\$                                     | .50  |
| 7   | For examination of witnesses to ascertain whether such war-    |      |
| 8   | rant ought to be issued, and against whom.....                 | .50  |
| 9   | For the examination when the accused is apprehended and        |      |
| 10  | brought before him.....  | 1.00 |
| 11  | For recognizance of bail, warrant of commitment, or dis-       |      |
| 12  | charge of the accused.....                                     | .50  |
| 13  | For recognizance of witnesses, each.....                       | .10  |
| 14  | For search warrant.....  | .50  |

## House Bill No. 197

AN ACT to amend and re-enact chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven of the legislature of West Virginia, creating the "Independent School District of Point Pleasant," and to change and enlarge the boundary and limits of said independent school district so as to include additional territory.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven of the legislature of West Virginia creating the independent school district of Point Pleasant and any amendments thereto be amended and re-enacted so as to change and enlarge the boundary limits of said independent school district of Point



Pleasant created by chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven to read as follows:

Section 1. That in case a majority of the voters voting on  
2 the question at the election herein provided for, be in favor  
3 thereof, the following described territory in the county of Mason  
4 shall after the result of such election is ascertained and de-  
5 clared, be added to and become a part of the independent school  
6 district of Point Pleasant, to-wit:

7 All that territory bounded and described as follows:

8 Beginning at a point on the Kanawha river where a stake is  
9 called for, being a corner of the lands formerly owned by C. C.  
10 Miller, who is now deceased, and the lands of the Kanawha and  
11 Michigan railway company, thence with the division line between  
12 said Miller lands and the railway company lands, north twenty-  
13 nine degrees forty-five minutes, east two hundred four poles and  
14 twenty-two links to a stake; thence by same course fifty-five poles  
15 and four links to a corner of the said Miller lands, the lands of  
16 the Kanawha and Michigan railway company and the lands for-  
17 merly owned by J. D. McCulloch; thence north fifty-eight de-  
18 grees west; two hundred ninety-seven poles to a stake on the south  
19 side of the Clarksburg road; thence crossing the lands formerly  
20 belonging to H. J. Fisher, north seventy degrees west ninety poles  
21 and twelve links to a stake on the south side of the road; thence  
22 north thirty-seven degrees thirty minutes west, thirty-seven poles  
23 to a large cedar tree on a hill side; thence north twenty degrees  
24 fifteen minutes, one hundred twenty-one poles to a chestnut oak  
25 on a hill side; thence north twenty-eight degrees thirty minutes  
26 east, one hundred thirty-four poles and eleven links to a small  
27 black oak on the top of a ridge on the lands of P. S. Eastham;  
28 thence north seventy-three degrees thirty minutes west, to the  
29 west bank of Crooked creek; thence along the west bank of  
30 Crooked creek with its meanderings and bindings thereon, north  
31 thirty-five degrees east four poles; north seventy-one degrees  
32 thirty minutes east, sixteen poles; north twenty-three degrees  
33 twenty poles; north twenty-two degrees east, twelve poles; north  
34 sixty-seven degrees forty-five minutes east, twelve poles; south  
35 eighty-four degrees fifteen minutes east, seventeen poles; north  
36 forty-two degrees thirty minutes east, twelve poles; north two  
37 degrees east, eight poles to the division line between the lands of  
38 P. C. Eastham and James Capehart; thence across the lands of  
39 James Capehart north five degrees east, four poles; north twen-

40 ty-four degrees thirty minutes east, ten poles; north twenty-four  
41 degrees thirty minutes west, nine poles; north thirty-three de-  
42 grees thirty minutes east, twenty-five poles; north fifty-six de-  
43 grees thirty-two minutes east, thirty-two poles; north six degrees  
44 east, sixteen poles; north thirty-three degrees thirty minutes east,  
45 twenty-two poles to a point on south side of Jerico road, same  
46 being corner to lands of E. J. Mossman; thence with the lines of  
47 said E. J. Mossman south thirty-seven degrees west ten poles to a  
48 stake in center of road; north eighty-one degrees thirty minutes  
49 west, four poles ten and one-half links to a point in center of  
50 Jerico road; thence leaving said Jerico road north eight degrees  
51 east thirty-two poles nineteen links to a post set in the ground on  
52 the fifteenth day of July, one thousand nine hundred and four;  
53 thence south eighty-two degrees east twenty-five poles to a stake  
54 on top of creek bank; thence along top of creek bank north twen-  
55 ty-seven degrees fifteen minutes east, twenty poles to a stake;  
56 thence north thirty-five degrees east ten poles ten links to a stake  
57 in bend of the fence; thence north fourteen degrees thirty minutes  
58 east, thirty-eight poles ten links to a stake in out line of thirty-six  
59 acre tract known as lot number one in Point Pleasant develop-  
60 ment company's survey; thence with said lot number one north  
61 eighty-two degrees west nine poles fifteen links to a stake; thence  
62 north forty-one degrees west eleven poles eight links to a stake at  
63 the northeast corner of fair ground; thence along the north line  
64 of said fair grounds north eighty-two degrees west, nine poles to  
65 a stake; thence north six degrees east, sixty-one poles eleven links  
66 to a stake; thence south thirty degrees east, seven and one-half  
67 poles to a fence post in southeast corner of cemetery lot; thence  
68 along the south line of cemetery lot north seventy-five degrees  
69 forty-five minutes west forty-eight poles to the east line of Jack-  
70 son avenue as laid out by the Point Pleasant development com-  
71 pany; thence along the east line of Jackson avenue north nine  
72 degrees east, thirty-four poles twelve links to a stake in the out-  
73 line of the Point Pleasant development company's lands and with  
74 said outline and line of land of Mrs. Ham Parr north seventy-six  
75 degrees west one hundred seventy-one poles to a stake in the south  
76 bank of Old Town creek; thence along the south bank of said Old  
77 Town creek with its meanders and binding thereon, south thirty-  
78 five degrees west, sixteen poles four links; north forty-seven de-  
79 grees fifteen minutes west, six poles, north twenty-eight degrees  
80 forty-five minutes west, eight poles; north seventy-five degrees

81 west, five and one-half poles; south three degrees thirty minutes  
82 three poles four links; south twenty-eight degrees east, six poles  
83 twenty links; south twenty degrees east, five poles; south twelve  
84 degrees west, six poles nine links; south eight degrees west, seven  
85 poles seven links; north eighty-one degrees thirty minutes west,  
86 four poles twenty-two links; south forty-four degrees forty-five  
87 minutes west, thirteen poles twenty-three links to the top of the  
88 Ohio river bank; thence north seventy-three degrees thirty  
89 minutes west, to the Ohio and West Virginia state line; thence  
90 with said state line down the Ohio river to a point opposite the  
91 center of the Kanawha river; thence crossing the Ohio river  
92 and in a line with the center of the Kanawha river, and con-  
93 tinuing said course up the center of said Kanawha river five hun-  
94 dred three poles to a point opposite the beginning corner; thence  
95 north twenty-nine degrees forty-five minutes east, three hun-  
96 dred twenty-five feet to the place of beginning. The same being  
97 the metes and bounds of the city of Point Pleasant.

98 *Provided, however,* that before this act shall take effect as  
99 to the territory included in the said independent school district of  
100 Point Pleasant, as existing before this act went into effect, it  
101 shall be submitted to the voters of the independent school dis-  
102 trict of Point Pleasant at a special election to be held in said  
103 independent district under the direction of the board of educa-  
104 tion thereof, to be held on the twelfth day of April, one thou-  
105 sand nine hundred and nineteen, and before the same shall take  
106 effect as to any part of the magisterial district of Lewis pro-  
107 posed to be included in said independent school district of Point  
108 Pleasant from said district of Lewis, it shall be submitted to  
109 the voters of the said magisterial district of Lewis at a special  
110 election to be held in said district under the direction of the  
111 board of education thereof, to be held on the twelfth day of  
112 April, one thousand nine hundred and nineteen.

Sec. 2. The tickets for the said election herein provided for  
2 shall have written or printed thereon "For enlarging independent  
3 school district" and "Against enlarging independent school dis-  
4 trict." The said election shall be held and conducted and the  
5 result thereof, in each of said districts, ascertained by officers to  
6 be appointed for the purpose in each of said districts by the  
7 boards of education thereof, respectively, conforming to the gen-  
8 eral law governing elections so far as applicable, and if the ma-  
9 jority of the votes cast upon said question in each of the said dis-

10 tricts shall be in favor of enlarging said independent school dis-  
11 tricts of Point Pleasant then the territory described in section  
12 one of this act shall thereafter be included within the independent  
13 school districts of Point Pleasant. If, however, the majority of  
14 votes cast upon said question in either of said districts shall be  
15 against enlarging said independent school district of Point Pleas-  
16 ant, or if the vote be even, then the boundary limits of said in-  
17 dependent school district shall be and remain as they were before  
18 this act went into effect.

Sec. 3. In the independent school district of Point Pleasant  
2 there shall be a board of education, who shall be a corporation by  
3 the name of "The Board of Education of the independent school  
4 district of Point Pleasant, in the county of Mason," and as such  
5 shall possess all the power and be subject to all the liabilities of  
6 such corporation, and in addition thereto shall likewise perform  
7 all the duties and be subject to all the liabilities of both boards of  
8 education and trustees. Except as in the next section otherwise  
9 provided, said board of education shall consist of a president and  
10 two commissioners, to be elected at the general elections held in  
11 said county of Mason, all of whom, after those first elected, shall  
12 hold their offices for terms of four years, beginning on the first  
13 day of July, next after the dates of their respective elections, and  
14 until their successors shall have been elected and qualified. They  
15 shall be first elected at the general election to be held as aforesaid  
16 in the year nineteen hundred and twenty, the president and one of  
17 said commissioners for terms of two years, commencing as afore-  
18 said, and the other commissioner for the full term of four years.

Sec. 4. Th independent school district of Point Pleasant  
2 herein authorized, and the board of education herein authorized  
3 to be elected, shall conform to, and be governed by, the general  
4 school law in this state, except where it is otherwise provided by  
5 this act. But until the board of education is elected as provided  
6 in the next preceding section, the present members of the board  
7 of education of the independent school district of Point Pleasant,  
8 and the members of the board of education of Lewis district re-  
9 siding within the territory included in this act shall be and is  
10 hereby constituted the board of education of the independent  
11 school district of Point Pleasant as created by this act until their  
12 successors are elected and qualified, as aforesaid. The members  
13 of the temporary board of education so constituted shall on the first

14 Monday in July, one thousand nine hundred and nineteen, meet  
15 and elect one of their members president of said board. Nothing  
16 herein contained shall be construed to prohibit the re-election  
17 eligibility of any member of such board for two or more terms.  
18 Vacancies in the board shall be filled for the unexpired term by  
19 appointment by said board within four weeks after such vacancy  
20 shall have occurred. If the board shall fail or refuse to act within  
21 this time, the county superintendent of schools shall promptly  
22 fill said vacancy by appointment.

Sec. 5. All school moneys, whether belonging to the teachers' or building fund of Lewis district, which may be unexpended when the provisions of this act take effect, shall be divided between the said Lewis district and the independent school district of Point Pleasant, in proportion to the amount of taxable property added to the independent school district of Point Pleasant. The latest assessment for state and county purpose shall be taken as the basis of such settlement and division. It shall be the duty of the boards of education of each of said districts, on or before the first day of July, next after the provisions of this act take effect, to make the financial settlement provided for in this section.

Sec. 6. The said board of education, at their annual meeting on the first Monday of July of each year, shall appoint a secretary who shall not be a member of the board, and who shall perform all the duties of a secretary of a board of education prescribed in the general school law, and in addition thereto, shall make an enumeration of the youths of the said independent district, between the ages of six and twenty-one years of age, at the time required by the general school law, and according to the provision therein contained in relation to the making enumeration of youths. Salary of said secretary shall not exceed one hundred and fifty dollars per year.

Sec. 7. It shall be the duty of the board of education of said independent district at their annual meeting, to be held at the time required by the general school law, to ascertain, as near as can be, the amount of money necessary, in addition to other funds properly belonging to said independent district available for that year, to keep the schools of said districts in operation not less than nine months in the year, for which amount said board shall levy a tax upon the taxable property included in said district, which

9 tax shall be collected in the same manner as other school taxes  
10 are collected, under the provisions of the general school law of  
11 this state; and for collecting the same the sheriff shall be allowed  
12 the same commission as he is allowed by law for collecting the  
13 school money for the districts.

Sec. 8. The board of education of said independent school  
2 district shall establish and maintain a first class high school,  
3 within the meaning of division (b) of section thirty of chapter  
4 forty-five of the code of West Virginia in which no person, ex-  
5 cept a thoroughly qualified high school teacher holding a degree  
6 from a college at least equal to West Virginia university in its  
7 curriculum and standing, shall be employed or permitted to teach  
8 any of the branches regularly prescribed for first-class high schools  
9 provided for in said division (b) the requirements of this section,  
10 as to such high school, may be enforced by any taxpayer of said  
11 independent district by mandamus to compel performances of  
12 official duty thereunder, or injunction to prevent violation thereof.  
13 In addition to said high school, said board of education may  
14 establish and maintain such other schools as shall, in their judg-  
15 ment, promote the educational interests of children of said in-  
16 dependent school district. Pupils between the ages of six and  
17 twenty-one years, residing elsewhere than in said independent dis-  
18 trict may be admitted to said schools upon payment to said board  
19 of education, in advance, of a reasonable monthly tuition, to be  
20 fixed by said board, and to become a part of the teachers' fund of  
21 said independent district. Said board of education shall, at a  
22 meeting to be held not later than the first day of September, in  
23 each year, appoint the teachers for said schools for the current  
24 school year, and fix and determine their salaries for such year.  
25 Such appointments shall be recorded by the secretary of said  
26 board; and any teacher appointed by said board may, by them,  
27 be removed for incompetency, neglect of duty, intemperance, pro-  
28 fanity, cruelty and immorality.

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## House Bill No. 59

AN ACT in relation to persons, firms and corporations engaged in  
furnishing, or required by law to furnish, natural gas for public  
use within this state, to provide remedies for the enforcement

of this act and penalties and punishment for violations thereof, and to extend the jurisdiction of the public service commission and of the courts of this state with respect thereto.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That every person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use, or for the use of the public, or any part of the public, whether for domestic, industrial or other consumption, within this state, shall to the extent of his supply of said gas produced in this state, (whether produced by such person or by any other person), furnished for public use within the territory of this state, and for the use of the public and every part of the public within the territory of this state, in or from which such gas is produced, or through which said gas is transported, or which is served by such person, a supply of natural gas reasonably adequate for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed or desired to be consumed by the public, or any part of the public, within said territory in this state, and for which said consumer or consumers therein shall apply and be ready and willing to make payment at lawful rates.

Sec. 2. That in case any person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, or for the use of the public or any part of the public within this state, shall have a production or supply of natural gas which is, or probably will be, insufficient to furnish for such use, (for the purposes, whether domestic, industrial or otherwise, for which natural gas is consumed by the public or any part of the public), within the territory in this state served by such person, then and in that event the public service commission shall have authority, and the same is hereby conferred on it, upon the application of any such person or any of his consumers within this state and after due hearing upon notice and proof to the satisfaction of the commission that public convenience and necessity so require, to order any other person engaged in furnishing, or required by law (whether statutory or common law) to furnish, natural gas for public use within this state, and producing or furnishing natural gas for public use in said territory or transporting the same through said territory, to furnish to such person having such insufficient production or

20 supply, natural gas for the purpose of supplying such deficiency,  
21 at and during such times, upon and at such just and reasonable  
22 terms, conditions and rates, and in such amounts, as the commis-  
23 sion shall prescribe. And whenever, after such hearing upon  
24 notice and proof, the commission shall determine that public con-  
25 venience and necessity so require, the commission shall have au-  
26 thority to provide for and compel the establishment of a reason-  
27 able physical connection or connections between the lines, pipes  
28 or conduits of such person having such excess supply of gas and  
29 the lines, pipes or conduits of the person having such deficiency  
30 of supply, and to require the laying and construction of such  
31 reasonable extensions of lines, pipes or conduits as may be neces-  
32 sary for the establishment of such physical connection or con-  
33 nections, and to ascertain, determine and fix the just and reason-  
34 able terms and conditions of such connection or connections, in-  
35 cluding just and reasonable rules and regulations and provision  
36 for the payment of the costs and expense of making the same or  
37 for the apportionment of such cost and expense as may appear  
38 just and reasonable. *Provided, however,* that no person shall, by  
39 virtue of this section, be ordered to furnish natural gas to any  
40 other person so engaged in furnishing, or required by law to fur-  
41 nish, natural gas for public use, except to the extent that the per-  
42 son so ordered to furnish natural gas shall, at the time, have a  
43 production or supply of natural gas in excess of the quantity suf-  
44 ficient to furnish a reasonably adequate supply to his consumers  
45 within this state; nor shall any person, by virtue of this section,  
46 be ordered to furnish natural gas to any other person so engaged in  
47 furnishing or required by law to furnish, natural gas for public  
48 use in a territory within this state, if and when the said person  
49 having said excess shall, to the extent of such excess, be ready  
50 and willing to furnish, and within such time as the commission  
51 shall prescribe shall actually furnish, to the consumers within  
52 said territory a reasonably adequate supply of natural gas.

Sec. 3. That insofar as the same shall not be in conflict  
2 with this act, all of the authority, powers, jurisdiction and duties  
3 conferred and imposed on the public service commission by the  
4 act entitled, "An act to create a public service commission and to  
5 prescribe its powers and duties, and to prescribe penalties for the  
6 violations of the provisions of this act", passed February twenty-  
7 first, one thousand nine hundred and thirteen, as amended by



8 the act entitled, "An act to amend and re-enact sections one, two,  
9 three, four, five, nine, ten, fourteen, fifteen and twenty-two, of  
10 chapter nine of the acts of one thousand nine hundred and thir-  
11 teen, creating a public service commission, prescribing its powers  
12 and duties, and penalties for violation of the provisions of said  
13 chapter, and to add thereto six sections to be known as sections  
14 twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven  
15 twenty-eight, enlarging the powers and duties of said public ser-  
16 vice commission, prescribing additional penalties and giving to  
17 the commission power to punish for contempt," passed February  
18 tenth, one thousand nine hundred and fifteen, are hereby confer-  
19 red and imposed on the public service commission in respect to the  
20 subject matter of this act, or any part thereof.

Sec. 4. That in case of violation of any provision of this act  
2 any person aggrieved or affected thereby may complain thereof to  
3 the public service commission in like manner, and thereupon such  
4 procedure shall be had, as is provided in respect to other com-  
5 plaints to or before said commission, and all such proceedings and  
6 remedies may be taken or had for the enforcement or review of  
7 the order or orders of said commission, and for the punishment  
8 of the violation of such order or orders, as are provided by law in  
9 respect to other orders of said commission. In case of the viola-  
10 tion of any provision of this act, the public service commission,  
11 or any person aggrieved or affected by such violation, in his own  
12 name, may apply to any court of competent jurisdiction by a bill  
13 for injunction, petition for writ of mandamus or other appropri-  
14 ate action, suit or proceeding, to compel obedience to and com-  
15 pliance with this act, or to prevent the violation of this act, or  
16 any provision thereof, pending the proceedings before said com-  
17 mission, and thereafter until final determination of any action,  
18 suit or proceeding for the enforcement or review of the final  
19 order of said commission; and such court shall have jurisdiction  
20 to grant the appropriate order, judgment or decree in the  
21 premises.

Sec. 5. That if any person subject to the provisions of this  
2 act shall fail or refuse to comply with any requirement of the  
3 commission hereunder, such person shall be subject to a fine of  
4 not less than one hundred dollars nor more than five hundred dol-  
5 lars for each offense; and such person, or the officers of the cor-  
6 poration, where such person is a corporation, may be indicted

7 for their failure to comply with any requirement of the com-  
8 mission under the provisions of this act, and upon conviction  
9 thereof, may be fined not to exceed five hundred dollars, and in  
10 the discretion of the court, confined in jail not to exceed thirty  
11 days. Every day during which any person, or any officer, agent  
12 or employee of such person, shall fail to observe and comply with  
13 any order or direction of the commission, or to perform any duty  
14 enjoined by this act, shall constitute a separate and distinct vio-  
15 lation of such order or direction of this act, as the case may be.

Sec. 6. That any person claiming to be damaged by any  
2 violation of this act may bring suit in his own behalf for the re-  
3 covery of the damage from the person or persons so violating the  
4 same in any circuit court having jurisdiction. In any such  
5 action the court may compel the attendance of the person or per-  
6 sons against whom said action is brought, or any officer, director,  
7 agent or employee of such person or persons, as a witness, and  
8 also require the production of all books, papers and documents  
9 which may be useful as evidence, and in the trial thereof such  
10 witness may be compelled to testify, but any such witness shall  
11 not be prosecuted for any offense concerning which he is com-  
12 pelled hereunder to testify.

Sec. 7. That the word "person" within the meaning of this  
2 act shall be construed to mean, and to include, persons, firms and  
3 corporations.

Sec. 8. That the sections, provisions and clauses of this act  
2 shall be deemed separable each from the other, and also in re-  
3 spect to the persons, firms, corporations and consumers mentioned  
4 therein or affected thereby, and if any separable part of this act  
5 be, or be held to be unconstitutional or for any reason invalid or  
6 unenforceable, the remaining parts thereof shall be and remain in  
7 full force and effect.

Sec. 9. That all acts and parts of acts in conflict with this  
2 act are hereby repealed.

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## House Bill No. 172

[BY MR. HALL.]

nineteen. Referred to the Committee on Taxation and Finance;  
Introduced January twentieth, one thousand nine hundred and

January twenty-fourth, reported back with the recommendation that it do pass; January twenty-eighth, coming up in regular order for consideration was read a first time and ordered to its second reading.

A BILL to make gas pipe lines public service corporations and common carriers within this state.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That every person, firm or corporation, having  
2 the right of eminent domain, owning or operating a gas pipe line  
3 within this state for the transportation and distribution of nat-  
4 ural gas to consumers, is hereby declared to be a public service cor-  
5 poration and common carrier, for the purpose of receiving, trans-  
6 porting and delivering natural gas for others for compensation;  
7 and it is hereby made the duty of any such owner or operator to  
8 receive, transport and deliver natural gas belonging to another  
9 or others; when the same is offered for transportation and deliv-  
10 ery, at rates of compensation to be fixed as provided in the next  
11 succeeding section of this act. The writ of mandamus will lie to  
12 compel compliance herewith.

Sec. 2. The rates of compensation to be received by such own-  
2 er or operator for the service required herein, shall be reasonable,  
3 and shall be fixed by the public service commission of this state, cre-

4

[H. B. No. 117

4 ated by chapter nine, acts of the legislature of one thousand nine  
5 hundred and thirteen.

Sec. 3. Except as herein provided such owners and operators  
2 shall be subject to the same laws and regulations as other public  
3 service corporations and common carriers, in so far as such laws  
4 and regulations are applicable.

Sec. 4. Any such owner or operator refusing to receive and  
2 deliver natural gas when offered for transportation and delivery as  
3 provided herein, shall be fined not less than one hundred nor more  
4 than one thousand dollars, and each refusal shall constitute a  
5 separate offense; and in addition thereto shall be liable to the  
6 owner of such gas and all other persons for all damages such re-  
7 fusals shall cause.

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[BY MR. LUTHER.]

Introduced January 28, 1919. Referred to the Committee on  
Public Buildings and Humane Institutions. January 3, reported

back with the recommendation that it do pass. February 4, taken up in regular order for consideration, read first time and ordered to its second reading.

A BILL relating to showing or exhibiting any picture or theatrical act in any theater or other place of public amusement, tending to arouse feeling between the races.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That it shall be unlawful for any person, corporation or company to advertise, exhibit, display or show any picture or theatrical act in any theater or other place of public amusement or entertainment within this state which shall in any manner injuriously reflect upon the proper and rightful progress, status, attainment or endeavor of any race or class of citizens calculated to result in arousing the prejudice, ire or feelings of one race or class of citizens against any other race or class of citizens.

Any person, corporation or company violating any of the provisions of this act shall be fined not less than one hundred nor more than one thousand dollars and may, at the discretion of the court, be confined in jail not more than thirty days.

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## House Bill No. 301

HOUSE BILL NO. 301.

[BY MR. MOORE.]

Introduced February 14, 1919. Reference to committee dispensed with; taken up out of its regular order for consideration, was read a first time and ordered to its second reading.

A BILL to comply with decrees of the supreme court of the United States in the suit of the commonwealth of Virginia versus the state of West Virginia, pending in that court, providing for the issuance of bonds and the appropriation of money for the payment of what is commonly known as the Virginia debt.

WHEREAS, After protracted litigation, the supreme court of the United States, by its decree entered in the above named suit on the fourteenth of June, one thousand nine hundred and fifteen, adjudged ordered and decreed that:

“The complainant, commonwealth of Virginia, recover of and from the defendant, state of West Virginia, the

sum of \$12,393,929.50, with interest thereon from July first, one thousand nine hundred and fifteen, until paid, at the rate of five *per centum per annum*, and that each party pay one-half of the costs."

which debt, interest and costs under the terms of said decree, as of January one, A. D., one thousand nine hundred and nineteen are as follows:

|  |   |                 |
|--|---|-----------------|
|  | 4 | [H. B. No. 301  |
| 1915—July 1, Principal .....                   |   | \$12,393,929.50 |
| Interest thereon from July 1, 1915, to January |   |                 |
| 1, 1919, at five per cent .....                |   | \$ 2,168,937.66 |

Total, principal and interest, as of said January

1, 1919 .....\$14,562,867.16  
to which is to be added one-half of the costs of said suit, estimated to be approximately \$———; and

WHEREAS, The state of West Virginia desires to comply with the decree of said court and to satisfy the same as soon as practicable; and

WHEREAS, The legislature has been informed by the Honorable Randolph Harrison, attorney for the Virginia debt commission, that bonds of this state, dated January one, one thousand nine hundred and nineteen, bearing three and one-half *per centum* interest, payable semi-annually on the first days of July and January in each year, hereinafter described, to the face amount of \$13,500,000.00, together with the cash payment of the sum of \$1,062,867.16, said sum bearing interest at the rate of five *per centum per annum* from January one, one thousand nine hundred and nineteen, until the date of the payment thereof, to which sum shall be added one-half of H. B. No. 301]

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said costs, estimated, as above set forth, to be approximately \$———, will be accepted at par in satisfaction of the judgment and decree of the supreme court of the United States first above referred to, with the privilege of West Virginia's retaining in the state treasury bonds sufficient in amount to cover the so-called West Virginia debt certificates which have not been deposited with the Virginia debt commission, to be held pending the delivery of any or all of said undeposited certificates;

Now, therefore,

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of public works of the state of

2 West Virginia be, and it is hereby, empowered and directed to  
3 create "listable" engraved bonds to the face value of \$13,-  
4 500,000.00, in the form substantially as hereinafter set forth; and  
5 that the auditor and the treasurer of the state of West Virginia  
6 be, and they are hereby, empowered and directed to cause the  
7 cash payment of \$1,062,867.16, which amount is hereby appro-  
8 priated out of the general fund of the state, to be made as here-  
9 inafter set forth, with interest thereon at the rate of five *per*  
10 *centum per annum* on such cash payment from January first,  
11 one thousand nine hundred and nineteen, until the date of such  
6 [H. B. No. 301

12 payment; and that the said auditor and treasurer be empowered  
13 and directed to cause the further payment of one-half of the  
14 costs, amounting approximately to the sum of \$———, which  
15 is hereby appropriated out of the general fund of the state, (to  
16 be transmitted at the same time with the cash payment of the  
17 said \$1,062,867.16) to be made as hereinafter directed, for and  
18 on account of the portion of the costs of said suit due under  
19 said decree by the state of West Virginia, which costs shall be  
20 taxed by the clerk of the supreme court of the United States.

Sec. 2. The said bonds shall be dated January first, one  
2 thousand nine hundred and nineteen, and be payable at the office  
3 of the treasurer of this state, or at such agency in the city of  
4 New York as may be designated by the state, on the first day  
5 of January, one thousand nine hundred and thirty-nine, and  
6 shall bear interest from the date thereof, payable semi-annually  
7 on the first days of July and January in each year, at the rate  
8 of three and one-half *per centum per annum*, and the said in-  
9 terest may be payable at the office of the treasurer of the state  
10 in Charleston, West Virginia, or at the New York agency above  
11 referred to; both principal and interest to be payable in gold  
12 coin of the United States of the present standard of weight and  
H. B. No. 301] 7

13 fineness; *provided*, that the state of West Virginia may, at any  
14 time, and from time to time, on or after January first, one thou-  
15 sand and nine hundred and twenty, redeem at par any part of all of  
16 the principal with accrued interest.

17 In case of such redemption before maturity, the bonds to  
18 be paid shall be determined by lot by the commissioners of the  
19 sinking fund hereinafter provided for, and notice of the bonds  
20 so selected to be paid shall be given by publication, beginning

21 at least sixty days prior to an interest due date, in a newspaper  
 22 published in Charleston, West Virginia, and in a newspaper pub-  
 23 lished in New York city, and interest from and after the next  
 24 succeeding interest due date shall cease upon the bonds so desig-  
 25 nated to be paid.

Sec. 3. The form of the bonds shall be substantially as fol-  
 2 lows, to-wit:

3 BOND No. ....

4 Issued under act of the legislature of West Virginia  
 5 approved ..... day of ....., one thousand  
 6 nine hundred and nineteen.

7 The State of West Virginia acknowledges itself to be indebted  
 8 to bearer in the sum of ..... dollars, which it prom-

8

[H. B. No. 301

9 ises to pay in gold coin of the United States of the present accurate  
 10 weight and fineness at the office of the treasurer of the state of West  
 11 Virginia, or at such agency in the city of New York as may  
 12 be designated by the state, on the first day of January, one  
 13 thousand nine hundred and thirty-nine with the option of pay-  
 14 ment at par with accrued interest before maturity at any time  
 15 on or after January first, one thousand nine hundred and twenty,  
 16 in accordance with the terms and provisions of said act, to which  
 17 reference is hereby made; interest payable according to the tenor  
 18 of the annexed coupons bearing the engraved signature of the  
 19 treasurer of the state of West Virginia. This obligation is here-  
 20 by made exempt from any taxation by the state of West Vir-  
 21 ginia, or by any county or municipal corporation thereof.

22 In testimony whereof, witness the signature of .....,  
 23 governor and the counter-signature of ....., secretary  
 24 of state of the state of West Virginia, hereto affixed according to  
 25 law.

26 Said bonds shall be issued in such denominations as the  
 27 board of public works may direct.

Sec. 4. The form of coupons shall be substantially as fol-  
 2 lows, to-wit:

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9

3 "COUPON No. .... FOR BOND No. ....

4 on the first day of ....., the State of West Virginia  
 5 will pay to bearer ..... dollars in gold coin of the  
 6 United States of the present standard of weight and fineness at  
 7 the office of the treasurer of the state, or at such agency of the

8 state in New York city as may be designated by the state, the  
9 same being six months interest on bond number .....  
10 ....., dollars."

11 Each coupon to be impressed on the back with the number  
12 in order of maturity, from number one consecutively.

Sec. 5. The said auditor and treasurer of the state of  
2 West Virginia are hereby empowered and directed to cause the  
3 cash payment of the aforesaid sum of one million, sixty-two  
4 thousand, eight hundred and sixty-seven dollars and sixteen cents,  
5 with interest thereon at the rate of five *per centum per annum*  
6 from January first, A. D. one thousand nine hundred and nine-  
7 teen, until the date of such payment, to be made to the state of  
8 Virginia.

Sec. 6. The said auditor and treasurer are hereby further  
2 empowered and directed to cause the cash payment of one-half  
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3 the costs of said suit, amounting to approximately \$.....,  
4 to be made to the state of Virginia.

Sec. 7. Upon delivery of said bonds and making the pay-  
2 ments above referred to of the sum of one million, sixty-two  
3 thousand eight hundred and sixty-seven dollars and sixteen cents  
4 and approximately \$....., respectively, said auditor  
5 and treasurer shall take a receipt from the comonwealth of Vir-  
6 ginia, in full discharge and satisfaction of the judgment first  
7 hereinbefore referred to. In delivering the bonds aforesaid the  
8 said auditor and treasurer are hereby authorized and directed to  
9 withhold and retain in the treasury of this state bonds sufficient  
10 to cover the amount of the certificates outstanding which have not  
11 been collected by and deposited with the Virginia commission,  
12 until such time as said outstanding and undeposited certificates  
13 are deposited with said Virginia commission. Said auditor and  
14 treasurer are further directed, upon presentation to them by the  
15 Virginia commission, at any time during the life of the bonds  
16 hereinbefore provided for, of any or all of said outstanding cer-  
17 tificates, to take up the same and exchange therefor the bonds  
18 so retained, ratably. Any certificates not delivered to the auditor  
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11

19 by January first, one thousand nine hundred and thirty-nine,  
20 shall be null and void.

Sec. 8. In the year one thousand nine hundred and nine-  
2 teen, and annually thereafter, there shall be set apart from the



3 revenue collected from the property of the state or other mode of  
4 taxation each year up to and including the year one thousand  
5 nine hundred and thirty-nine, a sinking fund amounting to at  
6 least one-twentieth of said total issue of bonds, to-wit: Six hun-  
7 dred and seventy-five thousand dollars in each and every year,  
8 which said sum shall be paid into the treasury of this state to the  
9 credit of a sinking fund, which is hereby established; and the  
10 auditor and treasurer are hereby appointed and designated as  
11 commissioners of the sinking fund, whose duty it shall be an-  
12 nually to apply the said sinking fund to the redemption or pur-  
13 chase, at a rate not above par and accrued interest, of the bonds  
15 shall be cancelled by the said sinking fund commissioners and  
16 the same registered by the auditor of this state in a book kept  
17 for that purpose, giving the number, date of issue, character,  
18 amount and owner at the time of purchase of bonds so redeemed  
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19 and cancelled; and in case no such purchase of bonds shall be  
20 made, then the amount which can be redeemed shall be called in  
21 by lot, as provided in section two of this act.

Sec. 9. The board of public works is further authorized and  
2 empowered to purchase, in the open market, any of the bonds  
3 hereinbefore provided for with any surplus that may be in the  
4 general fund, whether said surplus shall have been created by a  
5 special tax or from the general revenues of the state.

Sec. 10. Executors, administrators and others acting as  
2. fiduciaries may invest in the bonds issued under this act, and the  
3 same shall be considered a lawful investment.

Sec. 11. The treasurer of the state of West Virginia is em-  
2 powered and directed to pay the interest on the bonds issued  
3 under this act as the same shall become due and payable out of  
4 any money in the treasury not otherwise appropriated.

Sec. 12. The plates from which the bonds authorized by  
2 this act are printed shall be the property of the state of West  
3 Virginia.

Sec. 13. All necessary expenses incurred in the execution  
2 of this act shall be paid out of any money in the treasury not  
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3 otherwise appropriated, on warrants of the auditor of the state  
4 drawn upon the treasurer or on the order of the commissioners  
5 of the sinking fund hereinbefore established, named and set  
6 forth.

# House Bill No. 106

[BY MR. McCLINTIC.]

Introduced January 17, 1919. Referred to the Committee on Taxation and Finance. January 24, reported back with the recommendation that it do pass; January 28, coming up in regular order for consideration was read a first time and ordered to its second reading.

A BILL to amend and re-enact sections one, three, four, ten, thirty-four, thirty-five, thirty-seven, thirty-nine, ninety-seven, one hundred five, one hundred seven, one hundred nine, one hundred twenty, one hundred twenty-one, one hundred thirty and section sixty-four, as amended by chapter thirty-nine, acts one thousand nine hundred and seventeen, adding section forty and repealing sections two, nine, twelve, thirteen, fourteen, fifteen, sixteen, nineteen, thirty-six, forty-four, fifty-eight, and one hundred and four, of chapter thirty-two of Barnes' code, one thousand nine hundred and sixteen, relating to regulations respecting licenses and license taxes.

*Be it enacted by the Legislature of West Virginia:*

1. Sections one, three, four, ten, thirty-four, thirty-five, thirty-seven, thirty-nine, ninety-seven, one hundred five, one hundred seven, one hundred nine, one hundred twenty, one hundred twenty-one, one hundred thirty and section sixty-four, as amended by chapter thirty-nine, acts one thousand nine hundred and seventeen, of chapter thirty-two of Barnes' code one thousand nine hundred and sixteen, be amended and re-enacted and that section forty be added thereto, so as to read as follows:

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Section 1. No person without a state license therefor, shall

2 (a) keep a hotel, or tavern, eating house, or restaurant; or

3 (b) keep for public use or resort, bowling alley, pool table,  
4 billiard table, bagatelle table, or any table of like kind; or

5 (c) engage generally in two or more counties in the business  
6 of maintaining, renting or leasing bill boards for advertising pur-  
6-a poses; or

7 (d) exhibit any circus, menagerie, circus and menagerie com-  
8 bined, theatrical performance, street or other carnival, or public  
9 show, to which admission is obtained for money or reward, except  
10 for the benefit or under the auspices of a volunteer fire depart-  
11 ment; or

12 (e) run or operate, for profit, a merry-go-round, or roller  
13 coaster, or scenic railway, or like device, or keep for public use or  
14 resort, a shooting gallery, or skating rink; or run or operate a  
15 cane rack, doll baby rack, knife rack, striking machine, or like  
16 device, or human laundry device, or dip device; or

17 (f) act as a hawker or peddler; or

18 (g) act as an auctioneer; or

19 (h) practice the business of real estate agent, stock broker,  
20 merchandise broker, or other broker, by buying or selling for  
21 others, stocks, securities, or any other property for a commission  
22 or reward; or

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23 (i) practice the business of money broker, buying or selling  
24 uncurrent or depreciated money or funds; or exchanging one kind  
25 of money or funds for another, for benefit or reward; or

26 (j) practice the business of pawn broker by lending money  
27 or other thing for profit, for or on account of personal property  
28 deposited with the lender in pledge; or

29 (k) sell, or barter, or offer, or expose, for sale or barter, any  
30 patent right; or

31 (l) sell, offer or expose, for sale to merchants trading stamps,  
32 premium stamps or certificates of like nature or character, or  
33 undertake with merchants to redeem such stamps or certificates  
33-a in money or goods; or

34 (m) being a traveling agent, canvasser, or salesman, sell or  
35 contract to sell any lightning rods, sewing machines, stove or  
36 range, or organ, or other musical instrument, or books, maps,  
37 prints, pamphlets, and periodicals, except such books, pamphlets  
38 and periodicals that be of a religious, or ethical nature, whether  
39 manufactured within or without this state; or

40 (n) sell, offer, or expose for sale, or solicit, or receive orders  
41 for manufactured tobacco, snuff, cigars, cigarettes, or any other  
42 preparation of tobacco, or cigarette paper or wrappers, at retail; or

43 (o) carry on business of junk dealer, or act as agent, solicitor,  
44 canvasser, or salesman, for any junk dealer; or

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45 (p) sell pistols, revolvers, dirks, slung-shots, billies, bowie-  
46 knives, metallic, or other false knuckles, or weapons of like kind;  
47 or

48 (q) maintain or occupy any house-boat, or like structure or  
49 vessel, upon or along the bed, banks or shores of any navigable

50 stream; or

51 (r) maintain any slot machine, or other automatic device,  
52 which, for the same profit or reward, in each case, and without any  
53 violation of law, furnishes music, or exhibits pictures, or provides  
54 facilities for weighing, or supplies any merchandise or other thing,  
55 or renders any service, except that no license in any case be re-  
56 quired to maintain any machine actually delivering merchandise  
57 therefrom, automatically, where such machine is kept within the  
58 merchant's place of business; but no slot machine or other auto-  
59 matic device with respect to which, or its operation, service, or  
60 supplies, there is any element of chance (being a gaming table,  
61 within the meaning of section one, of chapter one hundred and  
62 fifty-one of the code), shall be licensed or protected by any license;  
63 or

64 (s) being a corporation, heretofore or hereafter chartered  
65 under the laws of this state, whether its principal place of business  
66 or chief works be within or without the state, do, or attempt to do,  
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67 any business by virtue of its charter or certificate of incorporation;  
68 or

69 (t) being a corporation chartered or organized under the  
70 laws of any other state or county, hold property or transact busi-  
71 ness in this state; or being a corporation, hold more than ten  
72 thousand acres of land in this state; or

73 (u) solicit, carry on or practice the business of a collection  
74 agency, or association, whether it be a person, firm or corporation;  
75 or

76 (v) keep, or maintain, a public park, admission to which is  
77 obtained for money or reward; or

78 (w) practice the business of tell or pretending to tell for-  
79 tunes; or

80 (x) carry on business of a labor agency.

81 *Provided*, that nothing in this chapter contained, and no  
82 license or payment under the provision hereof shall be taken to  
83 legalize any act which otherwise may be in violation of law, or  
84 exempt any person from any penalty prescribed for such violation.

Sec. 3. Any person convicted of violating any of the pro-  
2 visions of the preceding section, shall be fined not less than twenty  
3 nor more than one hundred dollars, and may, within the discre-  
4 tion of the court, be imprisoned in the county jail not more than  
5 three months.

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Sec. 4. This chapter shall not be construed (a) to require  
2 a license to keep a boarding house, or boarding school, where  
3 boarders are not received for less than three days; or

4 (b) to require any incorporated bank, savings bank, or sav-  
5 ings institution, or trust company, to obtain a license as broker  
6 or private banker; or

7 (c) to require any resident of this state to obtain a license  
8 to exhibit any work or production of his own invention or skill;  
9 or

9-a (d) to require license for any school exhibition, literary or  
9-b scientific lecture, or musical concert; or

10 (e) to require license for furnishing refreshments at any  
11 public dinner, fair, festival, or celebration; or

12 (f) to require any trustee, selling trust property, or any  
13 personal representative or committee selling property belonging  
14 to the estate under his charge, or any officer or commissioner sell-  
15 ing property under the order, decree, execution or process of any  
16 court of justice of this state, or of the United States, to obtain  
17 license to make such sale; or

18 (g) to require any collector, or person selling religious books,  
19 to obtain a license therefor; or

20 (h) to require farmers who furnish meals to travelers and  
21 others passing, to obtain license therefor.

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Sec. 10. The state licenses mentioned in section one, shall  
2 be issued by the clerk of the county court upon proper application  
3 filed with him, as provided in the next succeeding section.

Sec. 34. The county court is hereby authorized to revoke  
2 any license mentioned in the first section for a good cause shown  
3 upon petition, in writing, or any inhabitant of the county; but  
4 the person holding the license must be given reasonable notice of  
5 the proposed revocation and privilege of being heard in person  
6 or by counsel. After such revocation, the license shall be of no  
7 effect to protect him from any penalty imposed by law.

Sec. 35. Every certificate issued as aforesaid, if it be to  
2 authorize the keeping of a hotel or tavern, eating house, or res-  
3 taurant, or bowling alley, billiard table or bagatelle, or any table  
4 of like kind, or turf, or base-ball exchange, shall specify the house  
5 in which it is to be kept or carried on; and to keep or carry on the  
6 same at a different place shall be deemed a violation of this chapter.

7 Other licenses shall be deemed co-extensive with the county sub-  
8 ject to such regulations as may be prescribed by the state tax  
9 commissioner, but of no effect beyond the limits of the county un-  
10 less otherwise herein provided.

Sec. 37. Any person holding a license for any purpose men-  
2 tioned in the first section, may, except as otherwise provided,  
3 assign the unexpired term thereof to another. There shall be a

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4 memorandum of such assignment endorsed by the person men-  
5 tioned in the license and the endorsement thereon shall be at-  
6 tested by the clerk of the county court or other person authorized  
7 by law to issue the license.

Sec. 39. The license tax for all annual licenses named in  
2 section one shall begin with the first day of July, of each year,  
3 and end with the thirtieth day of the following June. Every  
4 state license for any other purpose named in section one (except  
5 as herein otherwise provided) shall expire on the thirtieth day of  
6 June. If granted for a less period than a year, the state tax  
7 thereon shall be computed from the annual tax in proportion to  
8 such time as the license has to run, unless specifically otherwise  
9 provided.

Sec. 40. The state license to sell patent rights, or act as  
2 hawker or peddler; or run or operate for profit, a merry-go-round,  
3 a cane rack, doll baby rack, knife rack, striking machine or like  
4 device, or human laundry device, or dip device, or roller coaster, or  
5 scenic railway, or like device, or conduct a shooting gallery, or  
6 keep for public use or resort a bowling alley, pool or billiard table,  
7 or any other table of like nature at a public watering place or  
8 public park in this state; or to keep or maintain a public park to  
9 which admission is obtained for money or reward, or conduct a  
10 theatrical performance on a showboat plying the navigable  
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11 streams of this state, shall be either for one year, three months,  
12 or six months from the commencement thereof. If for three  
13 months, the state tax thereon shall be one-third, and of for six  
14 months, three-fifths of the annual tax.

Sec. 64. On every license to keep a hotel or tavern, where  
2 rooms are kept or maintained for rental, public use or  
3 resort, the annual license tax shall be fifty cents per room for  
4 each guest room so kept, for the first twenty rooms or less;  
5 and one dollar per room for each additional room so kept. On

6 every license to keep an eating house, or restaurant, not owner, run  
7 or operated in connection with a hotel, where the gross receipts  
7-a for the previous year for such eating house or restaurant are five  
8 thousand dollars or less, the annual license tax shall be five dollars;  
9 where the gross receipts for the previous year were in excess of  
9-a five thousand dollars and not in excess of seventy-five hun-  
10 dred dollars, the annual license tax shall be ten dollars per  
11 year; where the gross receipts for the previous year were in excess  
12 of seventy-five hundred dollars and not in excess of ten thousand  
13 dollars, the annual license tax shall be twenty-five dollars; where  
14 the gross receipts for the previous year were in excess of ten  
15 thousand dollars, the annual license tax shall be forty dollars.  
16 Where any eating house or restaurant has been conducted for a  
17 period less than one year, the receipts for the proportional part of

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18 the year shall be taken as a basis for the tax for the whole year.  
19 Any restaurant or eating house commencing business after the be-  
20 ginning of the license year, shall pay an annual tax for the re-  
21 mainder of that year at the rate of ten dollars.

Sec. 97. The state tax on every license to engage generally  
2 in the business of maintaining, renting or leasing, bill boards for  
3 general advertising purposes, or maintaining, renting or leasing  
4 such boards for painting signs or novelties thereon, shall be two  
5 hundred dollars annually. This license shall be issued by the state  
6 tax commissioner and shall be co-extensive with the state.

Sec. 105. On every license to operate a roller coaster, a  
2 merry-go-round, scenic railway, or like device, for one week, ten  
3 dollars; for four months, thirty dollars; for six months, fifty  
4 dollars; and for one year, one hundred dollars. On every license  
5 to run or operate doll baby rack, or cane rack, or knife rack,  
6 striking machine, or like device, or human laundry device, or dip  
7 device, the tax shall be five dollars for one week; twenty dollars  
8 for four months; thirty dollars for six months, and fifty dollars  
9 for one year; *provided, however*, that licenses under this section  
10 may be issued for the periods provided in section forty of this  
11 chapter and the license tax charged as provided therein.

Sec. 107. On every license to carry on the business of money  
2 broker, two hundred and fifty dollars. The term money broker  
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3 shall include every person, firm or corporation, (other than a  
4 regularly organized state or national bank, or building and loan

5 association), that lends money on real or personal property, dis-  
 6 counts paper, cashes time, purchases and sells government or state  
 7 bonds, or other government or state securities, or engages in any  
 8 business of similar or like character.

Sec. 109. On every license to keep roller skating rink for  
 2 public use or resort, in a city or town of population of ten thou-  
 3 sand or more, one hundred dollars; in a city or town of popula-  
 4 tion of more than five thousand but less than ten thousand, fifty  
 5-6 dollars; in a city or town with population not exceeding five thou-  
 7 sand or outside of a city or town, twenty-five dollars. On every  
 7 license to keep and maintain a public park, to which admission is  
 8 obtained for money or reward, in counties of over thirty thousand  
 9 inhabitants, fifty dollars; in counties of less than thirty thousand  
 10 inhabitants and more than twenty thousand inhabitants, thirty-  
 11 five dollars; in counties less than twenty thousand inhabitants,  
 12 twenty-five dollars; but such license for such public park shall  
 13 not be construed to be in lieu, or to include any other license now  
 14 required by law on any subject of taxation located at or in said  
 15 park or elsewhere, and every park to which admission is obtained  
 16 for money or other reward, shall be construed and held to be sub-  
 17 ject to the provisions of this chapter. On every license to act as a

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18 palmist, clairvoyant, or fortune-teller, twenty dollars; on every  
 19 license to conduct the business of a labor agency, one hundred  
 20 dollars; any person or corporation who hires or contracts with  
 21 laborers, male or female, to be employed by persons other than  
 22 himself, and to be transported out of the state for employment in  
 23 another state, shall be deemed a labor agency within the meaning  
 24 of this clause.

Sec. 120. The state tax on every license;

2 (a) to exhibit circus, or menagerie, or circus and menagerie  
 3 combined, wild-west show, trained animal show, or dog and pony  
 4 show, shall be fifty cents for each railroad car, used in transporting  
 5 said show into or through this state, for each exhibition or per-  
 6 formance. Where the transportation of such show is by wagon  
 7 motor truck, or other vehicle, the tax upon such show shall be ten  
 8 dollars per day;

9 (b) The state tax on every license to exhibit a side show in  
 10 the vicinity of any other show, shall be ten dollars per day;

11 (c) The state tax on every license to exhibit a street or other  
 12 carnival, or any show connected with a county or other fair, five



13 dollars a week for each separate entertainment or exhibition for  
14 which a fee is charged;

15 (d) The state tax on every license to exhibit any other show  
16 in cities or towns with a population of ten thousand or more, ten  
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17 dollars, and in cities or towns of less than ten thousand, five  
18 dollars.

19 Every show, exhibition or performance, such as is described  
20 in clause (a) of this section whether under the same canvass or  
21 not being concluded, so that an additional fee for admission be  
22 charged in lieu of a check authorizing the holder to re-enter with-  
23 out charge, shall be construed to require an additional license for  
24 any further or other show exhibition, or performance.

Sec. 121. If any person shall conduct any business, or oc-  
2 cupation, or exercise any right or privilege without the license  
3 required by law therefor, he shall, in addition to paying the tax,  
4 be required to pay a penalty of ten per centum of the annual tax  
5 for each month, or fractional part thereof, for such time as he  
6 was in default. Such penalty shall be deemed license tax, and shall  
7 be assessed and collected in the manner prescribed in this chapter  
8 as to other license taxes, except that the license certificate issued  
9 therefor and the report thereof made to the auditor shall state  
10 separately the amount of the license tax proper and the penalty.  
11 It shall be the duty of the officer who issues the certificate of  
12 license to state therein the full amount of the tax thereof and of  
13 the penalty separately; and it shall be the duty of the officer  
14 charged with the collection of the tax on such license to collect  
15 the full amount thereof and of the penalty. It shall be the duty

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16 of the auditor to charge the officer with the full amount of such  
17 tax and penalty. If any such officer shall violate this section he  
18 shall be subject to a fine not exceeding one hundred dollars; and,  
19 in addition thereto, the officer whose duty it was to collect such  
20 tax and penalty shall be liable for the amount thereof he failed  
21 to collect that might have been collected by due diligence.

Sec. 130. Every foreign corporation holding property or do-  
2 ing business in this state, shall make report to the auditor annually  
3 in the third month preceding the beginning of the license tax  
4 year, in which report shall be set out:

5 (1) the name of such corporation, the name of the state or  
6 country by which incorporated, the date of incorporation, the date

7 of the certificate of the secretary of state authorizing it to do  
8 business in this state, the place of its principal office, the names  
9 and post office addresses of its president, secretary, and of its  
10 officers, if any, charged with the duty of making returns of its  
11 property for taxation and the name and post office address of its  
12 attorneys of record in this state;

13 (2) the number of shares of its authorized capital stock, and  
14 the par value of each share;

15 (3) the value of the property owned and used by such cor-  
16 poration within this state, where situate, of what it consists, and  
17 the number of acres of land it holds in this state; and the value  
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18 of its property owned and used within this state; and

19 (4) the proportion of its capital stock which is represented  
20 by property owned and used in the state of West Virginia. Such  
21 report shall be verified by the affidavit of the president, secretary  
22 or other executive officer of such corporation.

23 It shall be the duty of the auditor to assess and fix the license  
24 tax of such corporation according to the proportion of its capital  
25 stock which is represented by its property owned and used in this  
26 state, which license tax shall be at the rate prescribed in section  
27 three of this act, (section one hundred twenty-six of this chapter),  
28 *provided*, that no such corporation shall pay an annual license tax  
29 of less than one hundred and fifty dollars. The auditor may, in  
30 any case, require such additional information as he may deem  
31 necessary to enable him to assess and fix the just amount of license  
32 tax of such corporation; and it shall be his duty to notify every  
33 such corporation of the amount so assessed by him; and it shall  
34 be the duty of the corporation to pay the same into the treasury of  
35 the state within thirty days thereafter, and if it fail to do so, shall  
36 be liable to the penalties prescribed in sections one hundred and  
37 thirty-six and one hundred and thirty-seven of this chapter.

38 Sections two, nine, twelve, thirteen, fourteen, fifteen, sixteen,  
39 nineteen, thirty-six, forty-four, fifty-eight and one hundred four

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40 and all acts and parts of acts coming within the purview of this  
41 act and inconsistent herewith are hereby repealed.

# House Bill No. 174

AN ACT to incorporate the town of South Charleston in Kanawha county, West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said town and the officers of same.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of so much of the county of Kanawha as is within the bounds prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The Town of South Charleston," and as such shall have perpetual succession and a common seal and by that name shall sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary for the purpose of said corporation.

Sec. 2. The corporate limits of said town shall hereafter be as follows:

Courses and distances of the boundaries of the above named survey are:

Beginning at a point on the north side of Kanawha river, at pool water mark and in the west line of Patrick street of the city of Charleston, West Virginia, (the said west line of Patrick street extended to the south side of the river is the present corporation line of the said city of Charleston) thence running with the said corporation line of the city of Charleston to the south side of the Kanawha river at pool water mark; thence running down the river along pool water mark nine hundred and fifty feet, more or less, to the east bank of Joplin branch; thence running up Joplin branch along its east bank five thousand two hundred and fifteen feet, more or less, to a stake with a small sycamore pointed on the east bank, and a large beech pointer on the west bank; thence leaving Joplin branch north seventy-five degrees west two thousand six hundred feet, more or less, to a stake at the southeast back corner of the Shepherd reservation; thence with back line of said Shepherd reservation, south seventy-nine degrees twenty-eight west one thousand and forty-three feet, more or less, to the southwest corner of the Shepherd reservation; thence leaving said reservations south sixty-two degrees fifteen minutes west seven thousand and seventy-five feet, to a stake on the west bank of Davis

25 creek, about one hundred feet above the mouth of a small left-  
26 hand branch, called branch; thence along the west  
27 bank of Davis creek to pool water mark of Kanawha river; thence  
28 north forty-four degrees west crossing Kanawha river about six  
29 hundred feet to pool water mark on the north side of said river;  
30 thence running up the river along pool water mark about three  
31 (3) miles to the beginning, containing about three (3) square  
32 miles, more or less.

Sec. 3. The municipal authorities of the town of South  
2 Charleston shall consist of a mayor and six councilmen who,  
3 together shall constitute and be known as "the common coun-  
4 cil of the town of South Charleston" who shall be elected by  
5 the voters of the entire town.

Sec. 4. In addition to the municipal authorities mention-  
2 ed in section three of this act, said town may have a treasurer,  
3 recorder, city solicitor, chief of police, chief of fire department,  
4 city engineer, street commissioner, health commissioner, and  
5 such other officers and agents as the said council may, from  
6 time to time, create or employ. The selection of all appointive  
7 officers named or provided for in this section, and the power to  
8 fix their salaries, shall be vested in the council, unless otherwise  
9 herein provided. The duties, in addition to these prescribed  
10 herein, of all appointive officers named or authorized in this act,  
11 shall be prescribed by the council by ordinance, and all such  
12 appointive officers, and all agents, servants, or employees of said  
13 town, shall be subject to removal from office, or employment at  
14 the will of the council of said town.

15 The recorder shall be elected by the voters of the entire  
16 town.

Sec. 5. The mayor and councilmen as soon as they shall  
2 be elected and qualified, as herein provided, shall be a body po-  
3 litic and corporate by the name of "The Corporation of South  
4 Charleston," and shall have perpetual succession and a com-  
5 mon seal; and by that name may sue and be sued, plead and be  
6 impleaded, contract and be contracted with, and may purchase  
7 and hold real estate and other property necessary or proper to  
8 enable it to discharge its duties, and needful for the good order,  
9 government and welfare of said corporation.

Sec. 6. All the corporate powers of the said town shall  
2 be exercised by the said council or under its authority, except  
3 when otherwise provided.

Sec. 7. The council of said town shall have and are hereby granted power to have said town surveyed; to open, vacate, broaden, change of, grade and pave streets, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases except as to lighting have power and authority to assess upon and collect from the property benefited thereby all, or such part of the expense thereof, as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said town, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said town, and the traffic passing thereover; to change the name of any street, avenue or road within said town, and to cause the re-numbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, roads, walks and footways for public use in said town to be done and kept clean and in good order by the owners of adjacent property; to enter into a contract with any internal improvement company for the joint ownership of any bridge by the town and such company, upon such terms as may be prescribed in the contract, but such bridge shall be a public highway; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the town, and to provide for their arrest and manner of punishment; to prohibit by ordinance the bringing into the town of any person or animal afflicted with contagious or infectious disease, and to punish any violator of said ordinance who knows or has reason to believe such person or animal to be so afflicted; to control and suppress disorderly houses of prostitution or ill-fame, houses of assignation, and gaming houses or any part thereof, and to punish gaming; to prohibit within said town or within three miles thereof slaughter houses, soap or glue factories and houses of like kind; to control the construction and repair of all houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction of the same, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof

43 to be first submitted to the town council; to control the open-  
44 ing and construction of ditches, drains, sewers, cess-pools and  
45 gutters, and to deepen, widen and clear the same of stagnant  
46 water or filth, and to prevent obstructions therein, and to deter-  
47 mine at whose expense the same shall be done; and to build  
48 and maintain fire station houses, police stations and police  
49 courts, and to regulate the management thereof; to acquire.  
50 lay off, appropriate and control public grounds, squares and  
51 parks, either within or without the town limits as herein de-  
52 fined; to purchase, sell, lease or contract for and take care of  
53 all public buildings, and structures and real estate, including  
54 libraries and hospitals, deemed proper for use of such town;  
55 and, for the protection of the public, to cause the removal of  
56 unsafe walls or buildings, and the filling of excavation to pre-  
57 vent injury or annoyance to the business of individuals from  
58 anything dangerous, offensive or unwholesome; to define, pro-  
59 hibit, abate, suppress and prevent all things detrimental to the  
60 health, morals, comfort, safety, convenience and welfare of the  
61 inhabitants of the town, and all nuisances and causes thereof,  
62 and to that end and thereabout to summon witnesses and hear  
63 testimony to declare and enforce quarantine against the in-  
64 troduction of any contagious or infectious disease prevailing  
65 in any other state, county or place, and of any and all persons  
66 and things likely to spread such contagion or infection; to reg-  
67 ulate the keeping of gunpowder and other combustible or dan-  
68 gerous articles; to regulate, restrain or prohibit the use of fire-  
69 crackers, or other explosives, or fireworks, and all noises or  
70 performances which may be dangerous, annoying to persons or  
71 tend to frighten horses or other animals; to provide and main-  
72 tain proper places for the burial of the dead and to regulate  
73 interments therein upon such terms and conditions as to price  
74 and otherwise as may determine; to provide for shade and  
75 ornamental trees and the protection of the same; to provide for  
76 the making of division fences; to make proper regulation for  
77 guarding against danger or damage from fires; to provide for  
78 the poor of the town, and to that end may contract with the  
79 proper authorities of Kanawha county to keep and maintain  
80 the poor, or any number thereof, upon terms to be agreed  
81 upon; to make suitable and proper regulations in regard to the  
82 use of the streets and alleys for street cars, railroad engines  
83 and cars, and to regulate the running and operation of the

84 same so as to prevent injury, inconvenience or annoyance to  
85 the public; to prohibit prize fighting, cock and dog fighting; to  
86 license, tax, regulate or prohibit theaters, circuses, the exhibi-  
87 tion of showmen and shows of any kind and the exhibition of  
88 natural or artificial curiosities, caravans, menageries, pictures,  
89 motion pictures and musical exhibitions and performances;  
90 to regulate the construction, height and material used in all  
91 buildings, and the maintenance and occupancy thereof; to reg-  
92 ulate and control the use for whatever purpose, of the streets  
93 and other public places; to create, establish, abolish and or-  
94 ganize employments and fix the compensation of all employees;  
95 to organize and maintain fire companies and to provide nec-  
96 essary apparatus, engines and implements for the same; to  
97 regulate and control the kind and manner of plumbing and  
98 electric wiring for the protection of the health and safety of  
99 said town; to levy taxes on persons, property and licenses; to  
100 license and tax dogs and other animals and regulate, restrain  
100-a and prohibit therein all other animals and fowls from running  
101 at large; to assess, levy and collect taxes for general and spe-  
102 cial purposes upon all the subjects or objects which the town  
103 may lawfully tax; to levy and collect assessments for local im-  
104 provements; to borrow money on the faith and credit of the  
105 town by the issue and sale of bonds in the manner prescribed  
106 by law; to appropriate the money of the town for all lawful  
107 purposes; to create, provide for, regulate and maintain all  
108 things in the nature of public works and improvements; to  
109 adopt rules for the transaction of business and for its own reg-  
110 ulation and government; to promote the general welfare of the  
111 town and to protect the persons and property of citizens there-  
112 in; to regulate and provide for the weighing of produce and  
113 other articles sold in said town and to regulate the transporta-  
114 tion thereof, and other things through the streets; to have the  
115 sole and exclusive right to grant, refuse or revoke any and all  
116 licenses for the carrying on of any business within said town on  
117 which the state exacts a license tax; to establish and regulate  
118 markets and to prescribe the time for holding the same, and  
119 what shall be sold in such market, and to acquire and hold  
120 property for market purposes; to regulate or prohibit the plac-  
121 ing of signs, bill-boards, posters and advertisements in, or over  
122 the streets, alleys, sidewalks and public grounds of said town;  
123 to preserve and protect the peace, order and safety and health

124 of the town and its inhabitants, including the right to regulate  
125 the sale and use of cocaine, morphine, opium and poisonous  
126 drugs; to make, enforce and provide local police, sanitary and  
127 other regulations, and fully exercise all lawful police powers;  
128 to appoint and fix the places of holding town elections; to  
129 erect, own, lease, authorize or prohibit the erection of gas  
130 works, system of water works or electric light works in or near  
131 the town, and to operate the same and sell the products or serv-  
132 ices thereof, and to do any and all things necessary and inci-  
133 dental to the conduct of such business; to provide for the  
134 purity of milk, meats and provisions offered for sale in said  
135 town, and to that end provide for a system of inspecting the  
136 same and making and enforcing rules for the regulation of  
137 their sale, and to prohibit the sale of any unwholesome or  
138 tainted milk, meats, fish, fruit, vegetables, or the sale of milk  
139 containing water or other things not constituting a part of  
140 pure milk; to provide for inspecting dairies and slaughter  
141 houses, whether in or outside of the town, where the milk and  
142 meat therefrom are offered for sale within the said town; to  
143 prescribe and enforce ordinances and rules for the purpose of  
144 protecting the health, property, lives, decency, morality and  
145 good order of the town and its inhabitants, and to protect  
146 places of divine worship in and about the premises where held,  
147 and to punish violations of such ordinances even if the offense  
148 under and against the same shall constitute offenses under the  
149 law of the state of West Virginia or the common law; to pro-  
150 vide for the employment and safe keeping of persons who may  
151 be committed in default of the payment of fines, penalties or  
152 costs under this act, who are otherwise unable or fail to dis-  
153 charge the same, by putting them to work for the benefit of  
154 the town upon the streets or other places provided by said  
155 town, and to use such means to prevent their escape while at  
156 work as the council may deem expedient; and the council may  
157 fix a reasonable rate per day as wages to be allowed such per-  
158 son until the fine and costs against him are thereby discharg-  
159 ed; to compel the attendance at public meetings of the mem-  
160 bers of the council; to prevent any person, association or cor-  
161 poration from polluting in any manner any pond, lake, basin,  
162 reservoir, stream, spring, creek, or other body of water from  
163 which the town shall take water to be used for domestic pur-  
164 poses by the inhabitants thereof, or from casting into any such



165 body of water, or on the bank thereof or in such proximity  
166 thereto that the same may enter therein, any filthy, unwhole-  
167 some, or obnoxious substance, object, or liquid, or anything what-  
168 soever, injurious to the health of the people of the town; to ex-  
169 ercise all other powers that now are or hereafter may be granted  
170 to municipalities by the constitution or the laws of the state of  
171 West Virginia; and all such powers, whether expressed or im-  
172 plied, shall be exercised and enforced in the manner prescribed  
173 by this charter, or when not prescribed herein, in such manner  
174 as shall be provided by the ordinances or resolutions of the coun-  
175 cil.

176 The enumeration of particular powers of this charter shall not  
177 be held or deemed to be exclusive, but in addition to the powers  
178 enumerated herein, impliedly thereby, or appropriate to the ex-  
179 ercise thereof, the council shall have and exercise all other powers,  
180 which, under the constitution and laws of the state of West Vir-  
181 ginia it would be competent for this charter specifically to  
182 enumerate.

#### *Qualification of Voters.*

Sec. 8. Every male person residing in said town shall be  
2 entitled to vote for all officers elected under this act; except no  
3 person who is a minor, or of unsound mind, or a pauper, or who  
4 is under conviction of treason or bribery in an election, or who has  
5 not been a resident of this state for one year, of said town for six  
6 months next preceding the election in which he desires to vote, or  
7 unless he is *bona fide* resident he shall not be permitted to vote.

Sec. 9. No person shall be eligible to the office of mayor,  
2 treasurer, recorder or councilman, unless at the time of his elec-  
3 tion he is legally entitled to vote in the town election for a mem-  
4 ber of the common council, and he was for the preceding year  
5 assessed with taxes upon real or personal property within the said  
6 town of the assessed aggregate value of at least one hundred  
7 (\$100.00) dollars, and shall have actually paid the taxes so as-  
8 sessed.

Sec. 10. On the first Tuesday in April, one thousand nine  
2 hundred and twenty, and every two years thereafter, there shall be  
3 elected by the qualified voters of said town a mayor, recorder and  
4 six councilmen; the term of office of said mayor, recorder and  
5 councilmen shall be for the period of two years, beginning on the

6 first day of May next after their election and until their successors  
7 shall be elected and qualified.

Sec. 11. In all elections for mayor, recorder and council-  
2 men, the officers shall be nominated by a mass convention. Any  
3 political party or any number of persons desiring to place a ticket  
4 upon the ballot to be voted for in said election, shall present to the  
5 council at a regular session thereof, not later than the twentieth  
6 day of March preceding said election, a petition containing the  
7 names of legal voters of said town equal to at least ten percent  
8 (10%) of all the voters of said town, asking said council to call  
9 a mass convention for the purpose of nominating officers to be  
10 voted for at said election. The council shall receive and examine  
11 said petition and if found to comply with the provisions of this  
12 act, shall order a nominating convention to be held in some public  
13 assembly room in said town not later than five days after said pe-  
14 tition is received, and shall order the recorder to post at least five  
15 notices in public and conspicuous places in said town; said notices  
16 to give the purpose, place, date and hour of said convention. Said  
17 council shall designate two persons, who shall be legal voters of  
18 said town, one of whom shall act as temporary chairman and the  
19 other as temporary secretary of said mass convention; said per-  
20 sons so appointed by said council as temporary chairman and sec-  
21 retary of said mass convention shall go to the place designated  
22 in said notice for holding said convention at the hour named there-  
23 in, and shall call said convention to order and shall then appoint  
24 a committee of three, who shall register all the legal voters pres-  
25 ent at said mass convention; said registration shall show the  
26 names, ages, and the length of time each person has resided within  
27 said town, and shall be made in duplicate, one copy of which shall  
28 be turned over to the temporary chairman of said convention and  
29 the other copy delivered to the recorder of said town. Said tem-  
30 porary chairman shall then, after the registration of said qualified  
31 voters having been delivered to him by said committee, proceed  
32 with the election of a chairman of said convention. After a chair-  
33 man having been duly elected by said convention, the tempo-  
34 rary chairman shall turn said convention over to said chairman  
35 so elected. Said elected chairman shall then proceed with the  
36-37 said convention in the nomination of the officers and shall con-  
38 duct said convention in a proper and legal manner. Said chairman  
39 and secretary shall certify to the council within twenty-four hours  
40 after said convention has been held, a list of the officers nominated

41 by said convention; the office for which each of said persons were  
42 nominated; the name of said ticket if named by the said conven-  
43 tion, together with a report of all the acts and resolutions of said  
44 convention, and the names of all the voters participating therein,  
45 which record shall be certified to by said chairman and said sec-  
46 retary. All questions submitted to said convention shall be de-  
47 cided by "aye and nay" vote, and all nominations and the election  
48 of a permanent chairman shall be made by "aye and nay" vote, and  
49 no person shall be permitted to vote, or to be heard in said con-  
50 convention, unless he is a legal voter of said town and his name is  
51 registered in said list of voters submitted to the temporary chair-  
52 man by the committee appointed by him for that purpose. No  
53 person's name shall be placed upon the ballot to be voted for in  
54 any town election unless he has been nominated by the legal  
55 voters of the said town as above provided, except if there be no pe-  
56 titions filed with said council asking said council to call a mass  
57 convention, as above provided, on or before the twentieth day  
58 of March preceding said election; then, and in that event, the  
59 council shall, by ordinance, call a mass convention to be held within  
60 said town for the purpose of nominating officers to be voted for at  
61 said election. Said council shall order the recorder to give notice  
62 of said convention as above provided, and shall name some legal  
63 voter of said town to act as temporary chairman of said conven-  
64 tion, and said recorder shall act as temporary secretary of said  
65 convention. Said convention so called by said council shall be  
66 held and conducted as hereinbefore provided, and in event any  
67 person appointed by said council to act as temporary chairman  
68 of any convention does not appear at the place and time of hold-  
69 ing said convention, or if he appears and fails or refuses to act  
70 as same, then such person designated by said council to act as tem-  
71 porary secretary of said meeting shall act as said chairman, and in  
72 so acting shall call some legal voter present at said convention to  
73 act as his secretary. The acts and proceedings of said conven-  
74 tion so held shall be so certified and returned to said council as  
75 hereinbefore provided.

Sec. 12. And further, any person voting or participating in  
2-3 any convention as above provided, shall not be allowed or per-  
4 mitted by the chairman, or officers, of any other convention held  
5 under this provision, to vote on any question submitted to said  
6 convention upon the election of any chairman, or the nomination  
7 of any candidate, whose name was presented at such convention

8 for nomination. And it shall be the duty of the recorder of the  
9 said town to furnish to the temporary chairman of any convention  
10 a list of names furnished him by the chairman and secretary of  
11 any other convention which had been previously called for the  
12 purpose of nominating officers for said election, and said officers  
13 of said convention shall not permit any voter whose name appears  
14 upon said list of said previous convention to participate in, or  
15 vote for chairman, or for the nomination of any candidate, or upon  
16 any question submitted to said convention being so held.

### *Elections.*

Sec. 13. The first election under this act shall be held on  
2 the first Tuesday in April, in the year one thousand nine hundred  
3 and twenty, and on the same day every two years thereafter. Such  
4 election and all subsequent elections shall be held in such man-  
5 ner as is or shall be prescribed by law.

Sec. 14. The council shall meet in special session on the last  
2 Monday in March and fix the place or places within said town  
3 where said election shall be held; shall appoint three commission-  
4 ers and two clerks, for each voting precinct, at which said election  
5 is to be held, and shall appoint one member of said council to act  
6 with the recorder as a ballot commissioner, which commission  
7 shall have the ballot prepared and ready to deliver to the election  
8 officers on the day before said election, and said election commis-  
9 sioners and clerks so appointed by said council shall hold and  
10 conduct said election in such manner as is or may be prescribed  
11 by law; they shall open said polls at sun-up and close the same  
12 at sundown; shall tabulate the vote at each voting precinct and  
13 certify to the council the result of the vote of the precinct which  
14 they are serving as such election officers and shall return to the  
15 said town recorder a copy of such certificate, together with the  
16 ballots, tally sheets, registration books, all of which shall be sealed  
17 in an envelope or other container.

Sec. 15. Said council shall meet on the first Monday fol-  
2 lowing said election and canvas the vote of said election and  
3 shall ascertain, publish and declare the result thereof; they shall  
4 keep a record of its proceedings and shall take down and record  
5 any evidence, motion, and any paper filed or offered by any candi-  
6 date, which record shall be open to the public and kept in the cus-  
7 tody of the recorder.

Sec. 16. The council shall, on the first Monday in March, one

2 thousand nine hundred and twenty, appoint such registration off-  
3 cers as it deems necessary to register all the legal voters within  
4 the corporate limits of said town, and shall furnish said election  
5 officers herein provided with a list of all the said voters entitled  
6 and qualified to vote at said town election, and said election officers  
7 shall not permit any person or persons to vote at said election un-  
8 less his or their names appear upon said registration book, or list  
9 of qualified voters made by said registrars.

Sec. 17. Said council may at its regular meeting prior to  
2 said election, register any legal voter or voters whose name has  
3 been omitted by said registrars, and said council shall give five  
4 days' notice of said meeting, which notice shall state the time  
5 and place of said meeting and its intention to correct the registra-  
6 tion of voters of said town and the registrars appointed by said  
7 council shall be present and assist said council in correcting said  
8 registration at said meeting.

Sec. 18. The first officers elected under the provisions of this  
2 act shall enter upon their official duties on the second Monday in  
3 May, one thousand nine hundred and twenty, and shall serve for a  
4 term of two years, or until their successors are elected and quali-  
5 fied, unless sooner disqualified, impeached or dismissed; and it is  
6 *further provided* that the officers elected on the second day of  
7 January, one thousand nine hundred and nineteen, shall serve  
8 in the official capacity in which they were elected until the second  
9 Monday in May, one thousand nine hundred and twenty, or until  
10 their successors are elected and qualified, unless sooner disquali-  
11 fied, impeached or dismissed.

Sec. 19. And be it *further provided* as there were only five  
2 councilmen elected on the second day of January, one thousand  
3 nine hundred and nineteen, and this charter provides for six  
4 councilmen, the said five councilmen so elected and the mayor  
5 and recorder shall elect from the qualified voters of said town  
6 another councilman, who shall serve until the second Monday in  
7 May, one thousand nine hundred and twenty, or until their suc-  
8 cessor is elected and qualified, unless sooner disqualified or im-  
9 peached. And after said councilman is so elected, the recorder  
10 elected on the second day of January, one thousand nine hundred  
11 and nineteen, shall not vote on any ordinance, resolution or ques-  
12 tion before said council.

Sec. 20. All officers so elected, shall, before taking their seat  
2 or performing any of the duties of their respective offices for

3 which they were elected, take and subscribe an oath of affirmation  
4 that they possess the qualifications prescribed by this act to hold  
5 such office and are not subject to any of the disqualifications pre-  
6 scribed therein; that they will support the constitution of the  
7 United States, and the constitution of this state, and honestly dis-  
8 charge the duty of the office to which they are elected to the best  
9 of their skill and judgment, which oath shall be taken and sub-  
10 scribed to within twenty days after said election, and be filed and  
11 preserved with the other papers and books of the town.

#### *The Tie Vote; How Decided.*

Sec. 21. Whenever two or more persons receive an equal num-  
2 ber of votes for mayor or councilman, such ties shall be decided by  
3 the council in existence at the time the election is held; *provided*,  
4 that the council in office at the time of the institution of such  
5 contest proceeding shall hold over and remain in office for the  
6 purpose of passing upon and deciding such contest, and for such  
7 purposes only; and nothing herein provided shall be construed to  
8 interfere with the duties, power and authority of the new or incom-  
9 ing council.

#### *Contested Elections.*

Sec. 22. All contested elections shall be heard and deter-  
2 mined by the council in existence at the time the election is held,  
3 and the contest shall be made and conducted in the manner as pro-  
4 vided for in contests for county and district officers, and the coun-  
5 cil by their proceedings in such cases shall, as nearly as practicable,  
6 conform with the like proceedings of the county court in such cases.

#### *Officers.*

Sec. 23. The mayor shall be the chief executive officer of the  
2 town, and shall take care that the orders, by-laws, ordinances, acts  
3 and resolutions of the council thereof are faithfully executed. He  
4 shall be *ex officio*, a justice and conservator of the peace within the  
5 town and shall, within the same, have, possess and exercise all the  
6 powers and perform all the duties vested in a justice of the  
7 peace, except that he shall have no jurisdiction in civil cases.  
8 Any warrant or other process issued by him may be executed at  
9 any place in the county. He shall have control of the police of the  
10 town, and may appoint special police officers whenever he deems

11 it necessary, and may suspend any policeman for cause; and it  
12 shall be his duty to see that the peace and good order of the town  
13 are preserved; and that persons and property therein are pro-  
14 tected; and to this end he may cause the arrest and detention of  
15 all riotous and disorderly persons in said town before issuing his  
16 warrant therefor. He shall have the power to issue executions  
17 for all fines, penalties and costs imposed by him or he may require  
18 the immediate payment thereof, and on default of such payment  
19 thereof, may commit the offending party to the jail of Kanawha  
20 county or other place of imprisonment in such corporation, if  
21 there be one, until the fine or penalty and costs shall be paid, but  
22 the term of imprisonment in such cases shall not exceed thirty  
23 days. In all cases where a person is sentenced to imprisonment,  
24 or to the payment of a fine of ten dollars or more, (and in no  
25 case shall a judgment for a fine of less than ten dollars be ordered  
26 or given by the mayor, if the defendant, his agent or attorney,  
27 object thereto), such person shall be allowed an appeal from such  
28 decision to the intermediate court of Kanawha county, upon the  
29 entering into a recognizance before the mayor, with surety deemed  
30 sufficient, to appear before said court on the first day of the next  
31 term thereof, to answer for the offense wherewith he is charged  
32 and to not depart thence without leave of the court. If such  
33 appeal be taken, the warrant of arrest (if there be any), the  
34 transcript of the judgment, the appeal bond and other papers of  
35 the case shall be forthwith delivered by the mayor to the clerk of  
36 said intermediate court; and the said court shall proceed to try  
37 such case in its order, and render such judgment, including that of  
38 costs, as the law and evidence may require, but no judgment shall  
39 be rendered against said town for costs on such appeal.

Sec. 24. The mayor may from time to time recommend  
2 to the council such measures as he may deem needful for the wel-  
3 fare of the town. The expense of maintaining any person com-  
4 mitted to the jail of the county, or to any place of imprisonment  
5 in said town, by him, except it be to answer an indictment, or be  
6 under provisions of section \_\_\_\_\_ and \_\_\_\_\_ of  
7 chapter \_\_\_\_\_ of the code of West Virginia, shall be paid by said  
8 town. Said mayor shall pay all moneys received by him for fines  
9 or by virtue of his office, belonging to said town or to the town  
10 collector and treasurer of the town within one week after he re-  
11 ceives the same. He shall receive a compensation for his services,

12 to be fixed by the council, exclusive of fees, and which shall not  
13 be increased or diminished during his term in office.

Sec. 25. The town recorder shall keep a journal of the pro-  
2 ceedings of the council, and have charge of and preserve the rec-  
3 ords of the town, in the building safe or vault, if there be one.  
4 In the absence from the town of, or in the case of sickness or  
5 inability of the mayor, or during any temporary vacancy in the  
6 office of the mayor, the town recorder shall perform the duties of  
7 the mayor which pertain to him as the chief executive of said  
8 town, and be vested with all powers necessary for the performance  
9 of such duties. He shall be conservator of the peace within  
10 the town.

Sec. 26. It shall be the duty of the town attorney or solic-  
2 itor, to prepare, when directed by council, all ordinances for the  
3 town, to represent the said town in all matters and proceedings in  
4 any court in which the said town is interested and perform such  
5 office duties as may be ordered by the council, and he shall re-  
6 ceive a compensation for his services, to be fixed by the council.

Sec. 27. It shall be the duty of the chief of the police to  
2 preserve order and quiet in said town and to see that all sub-  
3 ordinate police officers faithfully perform their official duties, and  
4 he may for good cause appearing to him, for neglect of duty, or  
5 insubordination, suspend any such officer from duty and report  
6 his actions and his reasons therefor to the next regular meeting  
7 of council for action thereon; he shall make a list of all dogs  
8 within said town liable to tax, collect the license tax thereon,  
9 and pay the same to the treasurer, as may be provided by ordi-  
10 nance of said town; he shall be present in the police court when-  
11 ever the same shall be in session, and see that all its orders and  
12 requirements are properly executed; he shall, before entering  
13 upon the discharge of his duties, execute a bond conditioned for  
14 the faithful performance by him of the duties of his office, and  
15 for the accounting for, and paying over, as required by law, of  
16 all money which may come into his hands by virtue of his office,  
17 with sureties to be approved by council; said bond to be in the  
18 penalty of not less than three thousand five hundred dollars, nor  
19 more than five thousand five hundred dollars, as the council may  
20 prescribe; he shall receive such compensation as may be fixed  
21 by council.

Sec. 28. In case a violation of any ordinance of said town is



2 committed in the presence, or within view of the chief of police,  
3 or other officer, the offender may be forthwith apprehended and  
4 taken before the mayor, and a complaint under oath, stating such  
5 violation, there lodged and filed; and thereupon such offender  
6 may be tried and dealt with according to law, without summons.  
7 The chief of police shall execute with the county of Kanawha,  
8 when directed to him, any process properly issued by the mayor  
9 in proceedings for the enforcement of ordinances; and shall col-  
10 lect by levy of execution or otherwise, and duly account for all  
11 fines assessed and costs imposed in such proceedings. He shall  
12 also have the right and powers, within said town in regard to  
13 the arrest of persons, the collection of claims and executions and  
14 the return of process, that are or may be lawfully exercised by a  
15 constable of a district within the same, and shall be entitled to  
16 the compensation therefor; and he and his sureties upon his  
17 official bond, shall be liable to all fines, penalties and forfeitures  
18 for which a constable is liable, for any dereliction of duty in  
19 office, to be recovered in the same manner and in the same courts  
20 that such fines, penalties and forfeitures are recovered against  
21 constables. He shall pay over all fines or sums collected by him  
22 to the treasurer forthwith.

Sec. 29. The presence of a majority of the council shall  
2 be necessary to make a quorum for the transaction of business.

Sec. 30. The council shall cause to be kept by the town  
2 recorder in a well-bound book, to be called the journal, an accurate  
3 record of all the proceedings, ordinances, acts, orders and resolu-  
4 tions, and in another book, to be called the book of ordinances,  
5 accurate copies of all general ordinances adopted by the council,  
6 both of which books shall be completely indexed and be open to  
7 the inspection of any citizen of the town of South Charleston, or  
8 any one required to pay taxes therein, or who may otherwise be  
9 interested. All oaths of office and bonds of the officers of said  
10 town, and all papers of the council shall be endorsed, filed and  
11 securely kept by the said town recorder. The bonds of officers  
12 shall be recorded in a well-bound book to be called the "record  
13 of bonds." Said town recorder shall perform all such duties as  
14 may by ordinance of the council be prescribed. Said council  
15 may bind and print in phamplet form all the general ordinances  
16 of said town, and transcripts of such ordinances, acts, orders  
17 and resolutions, certified by the town recorder under the

18 seal of the town, shall be deemed *prima facie* correct  
19 when sought to be used before any court or before any  
20 justice. The recorder shall also keep a book called the "order  
21 book," entering in said book, to whom paid, the amount and date  
22 of all orders of council to pay money out of the town funds.

Sec. 31. The mayor shall have no vote on questions before  
2 the council, except in case of a tie, which tie shall be decided by  
3 the vote of the mayor.

Sec. 32. The meetings of the council shall be held at such  
2 place in said town, and at such time as they shall from time  
3 to time ordain and appoint, but it shall be lawful for the council  
4 by ordinance, to vest in any officer of said town, or in any mem-  
5 ber, or number of members of their own body, the authority to  
6 call special meetings; and it shall prescribe by ordinance the  
7 mode in which notice of such meetings shall be given, and no  
8 business shall be transacted at such special meeting unless a  
9 majority of all members of the council shall be present, except  
10 that a less number may compel the attendance of absent members  
11 under such reasonable penalties as they may think proper to  
12 impose.

Sec. 33. Whenever anything for which a state license is  
2 required is to be done within said town, the council may require  
3 a town license therefor, and may impose a tax thereon for the  
4 use of the said town.

5 The council of said town shall have authority within said  
6 town to require and grant licenses to owners of horses, hacks,  
7 carts, wagons, drays, bicycles, automobiles and every description  
8 of wheeled vehicles and carriages kept for hire, and levy and col-  
9 lect taxes thereon, and subject the same to such regulations as  
10 the interests and conveniences of the inhabitants of said town,  
11 of the protection of paved streets in the opinion of the council  
12 shall require; also to license and tax hawkers, auctioneers, junk  
13 dealers and peddlers within said town, and persons who tem-  
14 porarily station themselves upon a street to sell or exhibit ar-  
15 ticles, and all butchers and vendors of meats, fruits or vegetables  
16 on the streets of the town may be required by the council to take  
17 out a license therefor. But nothing herein contained shall be  
18 construed to require any inhabitant of the county of Kanawha  
19 to obtain a town license for the purpose of selling to the inhab-  
20 itants of said town any meat, fruit or vegetables raised or pro-

21 duced by such inhabitant within said county. No license to per-  
22 mit the permanent occupancy for private use of an open street,  
23 alley or public square, or any part thereof, or a use for private  
24 purposes that obstructs the free use of the streets, shall be given  
25 or granted. And said council shall have the authority, by town  
26 ordinance, to grant or refuse to grant a license to keepers of  
27 hotels, inns, taverns and boarding houses, but no license shall be  
28 granted for anything prohibited by a state tax.

Sec. 34. It shall be the duty of the town collector and treas-  
2 urer to receive one copy of the assessor's book, receipting to the  
3 council for the same, and for the taxes therein extended, and it  
4 shall be his duty to collect from the parties the entire amount  
5 of taxes which they are severally charged from and after the first  
6 day of October, in each year, until the first day of June, of the  
7 following year, and he shall in said book write the word "paid"  
8 opposite the name of the person so paying, and shall also receipt  
9 to said taxpayer for the taxes so paid.

10 (a) He shall also receive such other moneys of the town  
11 as he is authorized by this chapter to receive, and all moneys  
12 ordered paid to him by the council, giving receipts to the parties  
13 paying, and shall keep an accurate account of the same; and his  
14 books at all times shall be open for the inspection of any tax-  
15 payer or attorney of the town, and he shall produce said books  
16 to said council for inspection at any meeting thereof upon order  
17 of said council.

18 (b) He shall, on or before the first Monday in July of  
19 each year, furnish to the council a full, complete and detailed  
20 statement of all moneys of which he is chargeable, or may have  
21 been received by him, up to the first day of July of that year,  
22 and shall, at any time in like manner, furnish a statement of  
23 all disbursements made by him during such previous year, with  
24 vouchers evidencing the same. He shall, upon the order of the  
25 council, at any time, submit a statement of amount of which he  
25-a is chargeable, and his disbursements.

26 (c) He shall receive all taxes upon licenses and receipt to  
27 the party paying the same, by the endorsement upon the permit  
28 granted by order of council, which permit shall be furnished  
29 him by the town recorder, and charge himself with the amount so  
30 received, and report to the council at its next regular meeting  
31 the amount so received by him.

32 (d) He shall, upon all moneys coming into his hands as  
33 such town collector and treasurer, and on all moneys duly paid  
34 or turned over to him upon orders of the council, receive as  
35 compensation therefor a sum to be fixed by the council, not ex-  
36 ceeding five per centum of the amount so collected.

37 (e) He shall, upon the expiration of his term of office,  
38 turn over to the council all moneys, books and other property  
39 in his possession belonging to the said town; and shall, before  
40 entering upon the duties of his office, execute a bond with good  
41 security, payable to the town of South Charleston, in the penalty  
42 of not less than five thousand dollars, conditioned for the faith-  
43 ful performance of the duties of his office, and for the accounting  
44 for and paying as required by law of all money which may come  
45 into his hands by virtue of his office, and the said town collector  
46 and treasurer shall be chargeable with all of the town taxes,  
47 levies and assessments, and all money of the town that may come  
48 into his hands, and shall account therefor.

49 (f) The council shall prescribe by ordinance therein  
50 stating what licenses of all kinds shall be applied for and which  
51 may be granted, the term of their extension, and shall require  
52 the payment of the taxes thereon before the delivery thereof to  
53 the applicant.

54 (g) The general provisions of the state law, as embodied  
55 in the code of West Virginia, relating to state licenses, shall be  
56 deemed applicable to licenses of a similar character therein men-  
57 tioned, when granted by or under the authority of the council  
58 of the town of South Charleston.

Sec. 35. Licenses for the keeping of dogs shall expire on  
2 the thirtieth day of April next after they are granted, and all  
3 other licenses may be for such time as the council may determine.

Sec. 36. The council shall have the right to institute pro-  
2 ceedings in the name of the town of South Charleston for the  
3 condemnation of real estate, for streets, alleys, drains, market  
4 grounds, city buildings, or other work or purpose of public utility.  
5 Such proceedings shall conform to the provisions of chapter  
6 forty-two of the code of West Virginia of one thousand nine hun-  
7 dred and thirteen, and the expense thereof shall be borne by the  
8 said town.

#### *Vacancies.*

Sec. 37. If a vacancy shall occur in the office of the mayor,

2 the council shall, at their next regular meeting fill the vacancy  
3 by the appointment of some qualified person. All vacancies  
4 occurring in the council shall be filled by the council. If any  
5 vacancy occurs in any appointed office the same shall be filled  
6 subject to the regulations of the original appointment.

Sec. 38. The council shall have and is hereby granted  
2 power and authority to remove from office any elected or ap-  
3 pointed officer or employee of the said town if said official or  
4 employee be found guilty of misappropriation of any funds be-  
5 longing to the town, or drunkenness, or failing or refusing to per-  
6 form his official duty, or if he be found guilty of any other mis-  
7 conduct in office. And the council is hereby specially authorized  
8 to remove the mayor of said town from office if he should fail or  
9 refuse to enforce the ordinances of said town, or if he should  
10 refuse to permit the ordinances of the said town to be enforced,  
11 or should said mayor interfere, or in any way hinder the en-  
12 forcement of the ordinances of said town.

Sec. 39. Any official of said town or any responsible citizen  
2 therein, desiring to prefer charges against any official under the  
3 provision of this act, shall file with the town recorder a written  
4 specification in duplicate, the duplicate of which, with notice of  
5 the time of hearing, shall be served upon the official against whom  
6 said charges are preferred, at which hearing the official so charged  
7 shall have the right to be represented before the council in per-  
8 son or by attorney, the right to require all witnesses to be sworn  
9 and to testify under oath before said council.

Sec. 40. If any one who shall have been elected to any  
2 office in said town shall not be eligible as herein prescribed, or  
3 shall fail or refuse to take the oath or affirmative of office as re-  
4 quired under this act within twenty days from the time he is so  
5 elected, the council may declare his office so vacant and fill the  
6 vacancy as hereinbefore provided.

*How Funds Shall be Deposited and Disbursed.*

Sec. 41. All moneys belonging to the town shall be paid  
2 over to the town collector and treasurer; and no money shall be  
3 paid out by him except as the same shall have been appropriated  
4 by the council, and upon an order signed by the mayor and re-  
5 corder, and not otherwise.

Sec. 42. All moneys received by the treasurer shall be im-  
2 mediately deposited in some bank within the town, which bank

3 shall be known as the town depository, and said depository shall  
4 not pay out any funds so deposited by said treasurer except upon  
5 an order signed by the mayor and recorder and endorsed on  
6 the back thereof by the treasurer.

Sec. 43. The town council shall designate some bank or  
2 banks within said town as town depository, in which bank or  
3 banks all of the funds belonging to said town shall be deposited  
4 therein by the treasurer of said town, which bank or banks so  
5 designated by said treasurer shall execute such bond as the coun-  
6 cil may, from time to time designate, which bond shall be pay-  
7 able to the town of South Charleston and in such penalty and  
8 with such surety as the council may fix, and the council may re-  
9 quire said bank or banks so designated to pay interest not exceed-  
10 ing three per cent (3%) on the average daily balance of such  
11 funds of said town so deposited in said bank or banks.

#### *Franchises.*

Sec. 44. Franchises shall be granted by the council, allow-  
2 ing to persons or corporations, for a limited time such occupancy  
3 of portions of the street as may be necessary for works of public  
4 utility and service, such as steam railway tracks, street railway  
5 tracks, poles and trolley wires, telephone and telegraph poles  
6 and subways, electric light and other electric poles, wires and  
7 subways, and gas and steam pipe lines, water, water lines and  
8 pipes. But no such franchise shall hereinafter be granted except  
9 under the following restrictions:

10 (1) No ordinance, granting any franchise for the use of  
11 the streets, alleys or public grounds for the town for any of the  
12 purposes of public utility above named, or for any other purpose  
13 of like nature, shall be passed unless it shall have been first pro-  
14 posed in the council and notice of the object, nature and extent  
15 of the franchise shall have been published at least thirty days,  
15-a by the applicant, in some newspaper of general circulation in the  
16 town of South Charleston, Kanawha county, before being acted  
17 upon, and shall have received a vote of the majority of the mem-  
18 bers of the council at a regular meeting after said publication.  
19 The votes thereon shall be taken by ayes and noes, and the same  
20 entered upon the journal. No such ordinance shall take effect  
21 until the expiration of twenty days after its passage, and if  
22 within the said twenty days a petition be filed with the town

23 recorder signed by one-fourth of the qualified voters of the said  
24 town, based upon the number of votes cast at the last election,  
25 requesting it, the council shall submit such ordinance to the  
26 qualified voters of the town for ratification or rejection, at a  
27 special election to be held for that purpose within forty-five days  
28 after such petition is presented and the vote for ratification and  
28-a for rejection cast at such election shall be entered upon  
29 the journal. If a majority of the votes cast at such election  
30 shall be in favor of ratification, then such ordinance shall take  
31 effect from the time the vote is entered upon the journal.

32 (2) Every grant of any such franchise shall be for a lim-  
33 ited period of time. If no limit be expressly provided in the  
34 grant, the franchise shall be valid for one year only. In no case  
35 shall the franchise extend for a period exceeding fifty years.

36 (3) No grant of any such franchise shall be made without,  
37 at the time of making it, providing that the grantee shall indem-  
38 nify the town against all damages caused by the construction  
39 of such work. All reasonable additional provisions and condi-  
40 tions may be made for the protection of the public from unnec-  
41 essary damage or inconvenience by reason of such works and the  
42 operation thereof.

43 (4) No grant of a franchise or the extension of, or an  
44 addition to, any line of such work, over any additional street or  
45 territory of the town, shall be made for a period extending be-  
46 yond the time limited for the expiration of the franchise of the  
47 principal work of which it is an extension; and if the franchise  
48 of the principal company or work is one which was granted be-  
49 fore this act goes into effect, and is not limited as to time, the  
50 franchise granted for the extension or addition shall nevertheless  
51 be made subject to the conditions hereof, including a time limit  
52 of not exceeding fifty years. If a franchise be secured from  
53 the town by an individual or by an independent or new company,  
54 and the work constructed thereunder afterwards becomes a part  
55 of it, or be operated as a part of a larger work of the same kind  
56 whose franchise was previously obtained and is limited to expire  
57 earlier, such later franchise shall, by reason of such annexation,  
58 merger, or single operation, expire simultaneously with such  
59 earlier franchise.

60 (5) The council shall, in suitable, practicable terms, make  
61 it an express condition of the grant of any such franchise where

62 it is for a work that is useful chiefly to the local public, that at  
63 the expiration of such franchise the grantee shall, if required  
64 by council, sell to the town the physical plant, at what it is then  
65 worth, independent of any value based upon the earning power  
66 thereof, and may also provide a means by arbitration or other-  
67 wise for determining what such value of that plant may be.

*Nuisances.*

Sec. 45. The council of said town shall have authority to  
2 abate and remove all nuisances in said town. They may compel the  
3 owners, agents, assignees, occupants or tenants of any lots, prem-  
4 ises, property, building or structure, upon or in which any nuisance  
5 may be, to abate and remove the same by orders therefor, and the  
6 council shall by ordinance provide a penalty for the violation of  
7 such orders. Council may by ordinance regulate the location,  
8 construction, repair, use, emptying and cleaning of all water  
9 closets, privies, cess pools, sinks, plumbing drains, yards, lots,  
10 area ways, pens, stables and other places where offensive, unsightly,  
11 unwholesome, objectionable or dangerous substances or liquids are,  
12 or may accumulate, and provide penalties for the violation of such  
13 regulations, which may be enforced against the owner, agents,  
14 assignee, occupant or tenant of any premises, or structure where  
15 such violation may occur. It shall be the duty of all police officers  
16 to report to the council the facts as to the existence of any nuisance  
17 known to them.

18 (a) If the owner, agent, tenant, assignee or occupant of any  
19 such premises, lots, property, building or structure, as is mentioned  
20 herein, shall fail or refuse to abate or remove any such nuisance,  
21 as mentioned herein, or to comply with the provisions of any such  
22 ordinance and the regulations herein contained, the council may  
23 have said nuisance abated or the provisions of said ordinance or  
24 ordinances carried out, after reasonable notice to said owner, oc-  
25 cupant, tenant, agent or assignee of his intention so to do, and  
26 collect the expenses thereof, with one per centum per month in-  
27 terest added from the date of said notice, from the said owner,  
28 occupant, tenant, agent, or assignee, by distress or sale, in the  
29 same manner in which taxes levied upon real estate for the benefit  
30 of said town are herein authorized to be collected, and the expense  
31 shall remain a lien upon said lot, or part of lot, the same as taxes  
32 levied upon real estate in said town; which lien may be enforced  
33 by a suit in equity before any court having jurisdiction, as other  
34 liens against real estate are enforced. In cases of non-resident



35 owners of real estate such notice may be served upon any tenant,  
36 occupant, assignee, or rental agent, or by publication thereof once  
37 a week for not less than two consecutive weeks in two newspapers  
38 of opposite politics, of general circulation in said town.

39 (b) And in all cases where any tenant, occupant or agent is  
40 required to abate and remove any nuisance under the provisions of  
41 this section, or comply with the provisions of any such ordinance  
42 as is mentioned herein, the expense thereof may be deducted out  
43 of the accruing or accrued rent of said property or amount due  
44 said owner from said agent, and such tenant, occupant or agent  
45 may recover the amount so paid from the owner, unless other-  
46 wise especially agreed upon.

47 (c) Any expense incurred by the council as herein provided,  
48 in the manner aforesaid, may be collected in the manner herein  
49 provided, notwithstanding the imposition of any other penalty or  
50 penalties upon any of the persons named herein, under any of the  
51 provisions of this act. The abatement or removal of any such  
52 nuisance by the town at the expense of said town, as herein pro-  
53 vided, shall be *prima facie* proof that the said notice to the owner,  
54 occupant, agent or assignee, was given as herein prescribed.

55 (d) The council may require all owners, tenants or occu-  
56 pants of improved property which may be located upon or near  
57 any street or alley along which may be extended any sewer or  
58 system of sewerage, which the said town may construct, own, or  
59 control, to connect with such sewer, or system of sewerage, all  
60 privies, ponds, water closets, cess pools, drains or sinks, located  
61 upon their respective properties or premises, so that their con-  
62 tents may be made to empty into such sewer or system of sewer-  
63 age.

#### *Estimate of Expenses and Levy.*

Sec. 46. The council shall, on or before the first day of  
2 August in each year, prepare an estimate of the amount of money  
3 necessary and advisable to be expended for the purpose of the town  
4 for the current year next ensuing and to be provided for by the  
5 levy of taxes as herein provided for such current year; in which  
6 estimate the council shall include a detailed itemized estimate of  
7 the money necessary to pay interest on the bonded indebtedness  
8 of said town, the amount required for the several sinking funds  
9 for the reduction of the principal thereof, the amount to be ex-  
10 pended severally for streets, alleys, curbing, police department,

11 fire department, street paving, sewers, salaries, parks, real and  
12 personal property, contingent expenses and other expenses, to-  
13 gether with an itemized statement of the estimated receipts, other  
14 than that to be derived by the annual levy, and council shall ap-  
15 portion the rate thereof (including the estimated receipts for  
16 licenses, and all other sources) among the several funds so as-  
17 certain and provided for, which said apportionment, when  
18 adopted, shall be spread upon the record of the council.

19 (a) Upon such estimate of expenses, the council shall there-  
20 upon, by an ordinance, lay a levy for the ensuing tax year of a  
21 sum not to exceed thirty-five cents on each one hundred dollars  
22 assessed valuation of all taxable property, real and personal, sub-  
23 ject to taxation in said town, as well as the capitation tax of not  
24 to exceed two dollars upon every male inhabitant of said town over  
25 the age of twenty-one years, who is subject to a capitation tax  
26 under the laws of the state of West Virginia, and said council is  
27 authorized to levy to such maximum of thirty-five cents on each  
28 one hundred dollars of valuation, notwithstanding any general  
29 laws now in force, or which may be enacted, restricting the powers  
30 of municipal corporations to levy taxes.

31 (b) Whenever anything for which a state license is required  
32 is to be done within said town, or within one mile of the corporate  
33 limits thereof, the municipal authorities, as herein provided, may  
34 require a town license to be had for doing the same, and may, in  
35 any case require from any person licensed, a bond with sureties  
36 and in such penalty and with such conditions as it may deem  
37 proper, and the council, on notice, may revoke such license at any  
38 time if the conditions of the said bond be broken.

39 The municipal authorities may prescribe, impose and enforce  
40 reasonable fines and penalties, including imprisonment under the  
41 order of the mayor of said town, or the person lawfully exercising  
42 his functions, upon any person carrying or attempting to carry on  
43 any business for which the said license is required without first  
44 obtaining a town license therefor and paying the town license  
45 tax assessed thereon. All license provided for in this chapter shall  
46 be paid to the treasurer. For the purpose of enforcing the pro-  
47 visions of this section, the town shall have police jurisdiction for  
48 one mile beyond the corporate limits thereof.

49 (d) The council shall have the power to make all regulations  
50 and pass all ordinances necessary and proper concerning the  
51 granting and revoking of all licenses.

*Taxes; How Collected.*

Sec. 47. The town taxes annually levied by said council shall be collected as follows:

Immediately after the annual levy for town taxes is laid, the recorder shall extend the same on the property books made out by him, including thereon the proper capitation taxes; he shall make out proper tax tickets and the same after being examined, compared and found to be correct by the council, shall be turned over to the treasurer by the first day of October following the levy. The treasurer's receipt for the gross amount thereof shall be returned and entered upon record and the treasurer charged therewith. The treasurer shall give notice by posting notices for twenty days in five conspicuous places in said town, stating that said tax tickets are in his hands for collection, the penalty for non-payment thereof, and the time and place when the same may be paid; *Provided, however*, that the taxpayer shall have the right to anticipate the payment of the whole or any part of the taxes assessed, but on all the tickets remaining unpaid in the treasurer's hands on the first day of January, succeeding said levy, a penalty of five per cent shall be added and collectible, together with six per cent interest per annum until paid; *Provided, however*, that the council shall have the power any year, by resolution, to extend the time that such tax tickets may remain in the treasurer's hands and be paid to him before adding the penalty, for a period not to exceed thirty days.

The council may by ordinance allow a discount for prompt payments.

(a) The treasurer shall have power to collect said taxes so placed in his hands, together with the penalty and interest thereon, heretofore provided, to be added thereto.

(b) The treasurer shall be charged with the gross amount of said tax tickets so delivered to him for collection and no deduction therefrom shall be allowed, unless on or before the first day of September of each year, he makes out and returns to the council a delinquent list of the taxes uncollected for the year previous, is correct and just; that he has received no part of the taxes mentioned thereon; that he has used due diligence to find property to distress for said taxes, and has found none, and that the same is uncollectable.

(c) Penalties and interest provided for in this section to be added to such taxes, shall not be deemed or considered as any

43 part of the limitation in this act hereinbefore prescribed, restrict-  
44 ing the annual town levy to thirty-five cents on each one hundred  
45 dollars valuation.

46 (d) The treasurer shall not take or collect anything but  
47 money for the payment of taxes.

48 (e) The treasurer shall perform such other duties con-  
49 nected herewith, as the council may require, and receive such com-  
50 pensation as shall be fixed by the council.

51 (f) All goods or chattels belonging to a person, firm or  
52 corporation or estate, assessed with any town taxes, whether the  
53 same be a capitation tax or a tax upon real or personal property,  
54 or an assessment for paving or other improvements, shall be liable  
55 for said taxes and may be distrained therefor in whosoever pos-  
56 session they may be found, and the treasurer shall have the same  
57 power to collect said taxes or assessments from any person owing  
58 debts to or having in his possession any estate belonging to a  
59 person assessed with any tax or assessment of any kind, that the  
60 sheriff has to collect state taxes in such cases. The treasurer may  
61 distrain and sell for all such taxes and assessments and in all re-  
62 spects have the power to enforce the collection thereof as the sheriff  
63 has to enforce the collection of state taxes.

64-65 (g) There shall be a lien upon all real estate within said  
66 town for the town taxes assessed thereon, including such penal-  
67 ties and interest added thereto for non-payment thereof, as are pre-  
68 scribed by this act, from the first day of January of the year in  
69 which said taxes are assessed. Said liens may be enforced by  
70 appropriate suit in any court of record in Kanawha county; *pro-*  
71 *vided*, such suit be instituted within five years from the time the  
72 said liens attached as herein provided, and such suit may either  
73 be by and in the name of the town of South Charleston as plain-  
74 tiff, or said town may intervene by petition in any suit pending to  
75 sell or enforce lien against any real estate, which is subject to  
76 such liens for said taxes. The liens herein created shall have  
77 priority over all other liens, except those for taxes due the state  
78 and county.

79 (h) Said liens for town taxes and attendant penalties, as  
80 well as for improvement assessments, may also be enforced by  
81 certifying the same to the clerk of the county court of Kanawha  
82 county for certification to the state auditor and the same may be  
83 certified down by said auditor and sold for the taxes, interest, pen-  
84 alties and commissions thereon, in the same manner, at the same

85 time, and by the same officer as real estate is sold for the taxes,  
86 interest, damages, costs and commissions due the state thereon,  
87 which officer shall account therefor on settlement with the coun-  
88 cil and pay the same over to the treasurer.

89 (i) The council may appoint or employ some person or firm  
90 to make the extension of the levy for town taxes and relieve the  
91 recorder of that duty, and compensate such person or firm for  
92 making said extension.

Sec. 48. The council may appoint some person or persons to  
2 assist the treasurer in collecting the taxes as herein provided, and  
3 may authorize said person so appointed to distrain, advertise, and  
4 make sale of any property in said town on which there is a lien  
5 for taxes due said town. Said person so appointed shall have all  
6 the power in the collection of taxes as is given to the treasurer  
7 herein, and all proceedings entered and acts performed by such per-  
8 son or persons so appointed shall be in the name and on behalf of  
9 the treasurer as hereinbefore provided.

Sec. 49 The council may appoint the chief of police to per-  
2 form these duties in addition to his other duties as chief of police,  
3 but said officer so appointed, if he is not already under bond, shall,  
4 before entering upon his duties, execute a bond in such penalty  
5 as the council may fix, and all moneys collected by said person so  
6 appointed shall immediately turn the same over to the treasurer  
7 and demand a receipt therefor. In no event shall the chief of  
8 police act as treasurer of the town.

#### *Street Paved.*

Sec. 50 (a) The town council of the town of South  
2 Charleston may order and cause any avenue, street, road or alley  
3 therein to be graded, or curbed, or recurbed with stone, concrete  
4 or other suitable material, or paved or repaved, between curbs,  
5 with brick wooden blocks, asphalt or other suitable material, or  
6 to be graded and curbed or recurbed and paved or repaved as  
7 aforesaid, or to be macadamized, or to be otherwise permanently  
8 improved or repaired, under such supervision as may be directed  
9 by ordinance or resolution, upon the best bid to be obtained by  
10 advertising for proposals therefor, except the town may do the  
11 work without letting it to contract as hereinafter provided in (d)  
12 of this section; and may purchase or condemn land for opening or  
13 widening avenues, streets, roads and alleys. The entire cost, or  
14 any part thereof designated by the council, of such grading, curb-

15 ing and paving, or macadamizing, or other permanent improve-  
16 ments, of any of the avenues, streets, roads, and alleys as afore-  
17 said, from and including the curb of either side thereof to the  
18 middle thereof, and the cost, or any part thereof, of purchasing  
19 or condemning land as aforesaid for street purposes, may be as-  
20 sessed to and required to be paid by the owners of the land, lots  
21 or fractional parts of the lots fronting or bounding on such ave-  
22 nue, street, road or alley so improved, except as otherwise pro-  
23 vided in (g) of this section.

24 (b) Payment is to be made by all land owners on either  
25 side of such portion of any avenue, street, road or alley so paved,  
26 opened, widened, or improved in such proportion of the total cost  
27 as the frontage in feet of his abutting land bears to the total front-  
28 age of all the land so abutting on said avenue, street, road or alley  
29 or portion thereof opened, widened, paved or improved as afore-  
30 said; but the cost of such paving or improvement on said avenue,  
31 street, road or alley (not including opening or widening) shall not  
32 include any portion or amount paid for the paving or improvement  
33 of the intersection of avenues, streets, roads or alleys, un-  
34 less the work to be done, and the payment made therefor, as espe-  
35 cially otherwise provided therein, as follows, to-wit:

36 (c) Upon petition in writing of the owners of not less than  
37 one-half in lineal feet of property abutting upon any avenue,  
38 street, road or alley in said town, asking the town to grade, curb,  
39 pave, or macadamize or otherwise to permanently improve, such  
40 avenue, street, road or alley, and offering in said petition to have  
41 their property so abutting as aforesaid assessed not only with their  
42 part of the cost of such improvement abutting upon their property,  
43 as therein otherwise provided, but also offering to have their said  
44 property proportionately assessed with the total cost of the paving,  
45 grading and curbing, or macadamizing or other permanent im-  
46 provement, of the intersection of the avenue, street, road or alley  
47 so paved or otherwise permanently improved, as petitioned for,  
48 the council may order such work to be done as heretofore pro-  
49 vided in this section, and the total cost thereof, including cost  
50 of intersection, to be charged to and paid by the owners of the  
51 property abutting on such avenue, street, road or alley, and that  
52 the paving assessment or certificate made or issued to cover the cost  
53 of paving, grading and curbing or otherwise permanently improv-  
54 ing such intersections shall be made a separate and one of the  
55 last assessments or certificates due against him and their prop-

56 erty so assessed; and the town may assume the payment of such  
57 assessment or certificate covering the cost of such intersections, or  
58 may reimburse the property owners paying the same out of its  
59 general levies for streets, but there shall be no legal obligation on  
60 the town to do so.

61 (d) The town itself may do such work and charge and col-  
62 lect the cost thereof in the manner set out in section fifty-one here-  
63 in. The decision of the town to do such work may be without no-  
64 tice or after the publication of the notice mentioned in this section,  
65 or after the rejection of all bids for the doing of the work.

66 (e) The cost of grading, curbing and paving, or otherwise  
67 improving the intersections, or parts of intersections, of avenues,  
68 streets, roads or alleys, on the plans adopted by the council for  
69 such work, shall be paid by the town except as otherwise pro-  
70 vided in paragraph (c) of this section.

71 (f) And if any such avenues, streets, roads or alleys be occu-  
72 pied by street car tracks or tracks of other railroads, the cost  
73 of said improvement of the space between the rails and two addi-  
74 tional feet outside of each rail shall be assessed to and borne and  
75 paid entirely by the person or company owning or operating such  
76 street car or other railway line, unless otherwise provided by the  
77 franchise of such street car or other railway company granted  
78 previous to the passage of this act.

79 (g) *Provided*, the council, if it so elects, may order and  
80 cause any avenue, street, road or alley, public park or public place  
81 to be widened, graded or changed in grade and curbed and re-  
82 curbed, and paved and repaved, with brick, concrete, asphalt or  
83 other suitable materials, or macadamized, or otherwise perman-  
84 ently improved, including the construction of the retaining walls,  
85 sewers, drains, water pipes, water dam and water courses, in con-  
86 nection therewith, and may purchase land, or condemn land as  
87 provided in this act, for any public avenue, street, road or alley,  
88 or part thereof, or park or other public purpose and the council  
89 may assess all or any part of the entire cost of such improvement  
90 (or taking of land, or both) upon the abutting, adjacent, con-  
91 tiguous or other lots or land especially benefited by such im-  
92 provements.

93 The council, when it decides to order the improvements  
94 under this plan, shall, by ordinance or resolution before doing  
95 the same fix the total amount of the special benefits to be de-  
96 rived from such improvements to the abutting, adjacent, con-

97 tiguous and other specially benefited land or lot so assessed,  
98 setting out the names of the owners, the amount of the special  
99 benefits and the approximate amount of the total cost of the pro-  
100 posed improvements; and the council may, in fixing such as-  
101 sessment, take into consideration the assessed value of the lot  
102 or land as fixed, for the last assessment year, for state and  
103 county purposes.

104 (h) When the council shall deem it expedient and proper  
105 to cause any avenue, street, road or alley, or any portion thereof,  
106 in such town, to be graded, or graded and paved, curbed or  
107 macadamized, or otherwise permanently improved, or land to  
108 be acquired or taken for street purposes, as provided in (a) of  
109 this section, or shall deem it expedient and proper to cause the  
110 construction of any public sewer in or under any such avenue,  
111 street, road or alley, or land or easement therein to be acquired  
112 or taken therefor, or elsewhere, as provided in section fifty-five  
113 of this act, it shall by ordinance or resolution, order the work  
114 done, stating the method of payment thereof, and, if it be let  
115 to contract, notice shall be in the following manner, to-wit:

116 (i) The notice for bids or proposals for doing such im-  
117 provements, either for street improvements or the construction  
118 of sewers, shall be published for at least fifteen days in two news-  
119 papers of opposite politics, of general circulation, in the town.  
120 If the publication of the notice cannot be procured in any news-  
121 paper in said town at reasonable rates, then said notice may be  
122 given in the manner directed by the council. Said notice shall  
123 state where and how the bids or proposals shall be made; and  
124 whether so stated in the notice or not, the town may reject any  
125 and all bids, for such proposed work. Before advertising for bids  
126 on the work, the town shall approve and adopt plans and specifi-  
127 cations therefor, and the advertisement for bids, and the con-  
128 tract awarded thereon, shall refer to such plans and specifications.  
129 The fact that such contract shall be let for said work shall be  
130 *prima facie* proof that the notice mentioned above was given as  
131-132 required therein.

133 (j) The cost of said paving, macadamizing or other per-  
134 manent improvement may be paid in one or two ways (to be  
135 specified by ordinance by the council), either as set out in sec-  
136 tion fifty-one or in section fifty-three of this act.

137 (k) If the abutting land on any such avenue, street, road  
138 or alley, sought to be improved as aforesaid, or in which a



139 sewer is ordered laid, is not laid off into lots by a map of record,  
140 the council, may, for the purpose of making the assessments  
141 provided for in this section and section fifty-five therein, lay  
142 off such lands into lots of such size as the council deems ad-  
143 visable for the purpose of laying a proper assessment against  
144 such land.

Sec. 51. (a) Said town of South Charleston is hereby  
2 authorized to issue its bonds for the purpose of providing for  
3 the cost of grading, paving and curbing, or macadamizing, or  
4 otherwise permanently improving the avenues, streets, roads and  
5 alleys of the said town, in anticipation of special assessment to  
6 be made upon the property abutting upon the avenues, streets,  
7 roads and alleys so improved. Said bonds may be in such an  
8 amount as shall be sufficient to pay the entire costs and expenses  
9 of said improvements for which such special assessments are  
10 to be levied; and the said town is authorized to sell said bonds,  
11 but not below the par value thereof, and said bonds shall bear  
12 interest not to exceed six per cent per annum, payable annually;  
13 and in the issuance and sale of said bonds the said town shall  
14 be governed by the restriction and limitations of the constitu-  
15 tion of this state, and the restriction and limitations of the  
16 laws of this state, relating to the issuance and sales of bonds,  
17 so far as such state laws are not in conflict with the provisions  
18 of this act; and the assessments as provided for and required to  
19 be paid herein shall be applied to the liquidation of said bonds  
20 and interest thereon, and if, by reason of the penalties collected  
21 with the delinquent assessments, there be any balance after the  
22 payment of the bonds and all accrued interest and costs, it shall  
23 be turned into the town treasury to the credit of the interest  
24 and sinking fund of the town.

25 But said town shall not become indebted in any manner or  
26 for any purpose to an amount including existing indebtedness,  
27 in the aggregate exceeding two and one-half per centum on the  
28 value of all taxable property therein, as provided in chapter fifty-  
29 one of the acts of the legislature of one thousand nine hundred  
30 and five, except for the purpose of grading, curbing, paving,  
31 macadamizing or otherwise permanently improving the avenue,  
32 streets, roads, and alleys therein, or constructing sewers therein  
33 or elsewhere, or acquiring or taking land or easement therein  
34 for street and sewer purposes, as provided for in this act, and  
35 for that purpose in estimating "existing indebtedness," special

36 assessment bonds representing the cost of paving or other perma-  
37 nent improvements of streets, roads or alleys, or the construc-  
38 tion of sewers, or acquiring or taking land for such purposes,  
39 and the cost of which is assessed against the abutting property  
40 on such avenues, streets, roads or alleys, or specially benefited  
41 property adjacent thereto, or on such owner, shall not be in-  
42 cluded; and likewise the amount in any sinking fund, or the  
43 amount invested therefor as provided by law, for the payment  
44 of outstanding bonds, shall not be included in the estimate of  
45 existing indebtedness; *provided, that* the aggregate of its debt  
46 of every kind whatsoever, including such special street perma-  
47 nent improvement bonds, or sewer bonds, shall not exceed five  
48 per centum of the value of all taxable property therein.

49 (b) And it shall be the duty of the council to immediately  
50 certify such assessments to the treasurer for collection, as herein  
51 provided; and for the purpose of facilitating the collection  
52 of such assessments against the properties herein, the council  
53 may issue assessment certificates, with interest coupons attached  
54 thereto, to be delivered to and charged against the town  
54-a treasurer who shall collect the same, and as such certificate and  
55 coupons are paid he shall deliver the cancelled certificates to  
56 the party paying the same. A copy of said order shall be cer-  
57 tified by the town recorder to the clerk of the county court of  
58 Kanawha county, who is hereby required to index the same in  
59 the proper trust deed book in the name of each person against  
60 whose property assessments appear therein.

61 (c) The amounts so assessed against said abutting lots and  
62 owners thereof, respectively, shall be paid in ten payments, as  
63 follows, that is to say, one-tenth of said amount, together with  
64 interest on the whole assessment for one year, shall be paid into  
65 the town treasury of the town before the first day of the follow-  
66 ing May; and a like one-tenth part, together with interest for one  
66-a year upon the whole amount remaining unpaid before the first  
67 day of May in each succeeding year thereafter, until all shall  
68 have been paid. Each of said installments of one-tenth shall  
69 bear interest of six per centum per annum payable annually from  
70 the date of assessment; *provided, however,* that the owner of any  
71 land, so assessed for the cost of the paving of said avenue, street,  
72 road or alley, shall have the right at any time to anticipate and  
73 pay the whole of such unpaid assessment and interest thereon

74 until the first day of the following May, and have the lien against  
75-76 the property so assessed released as hereinafter provided.

77 (d) If any such assessment shall not be paid when due,  
78 the council shall cause to be enforced the payment of said as-  
79 sessment and interest in all respects as herein provided for the  
80 collection of taxes due the town; and said assessments shall be a  
81 lien upon the property liable therefor the same as for taxes,  
82 which lien may be enforced in the same manner as provided for  
83 the sale of property for the payment of taxes and tax liens; and  
84 the liens herein provided for shall have priority over all other  
85 liens except those for taxes due the state and the county, and  
86 shall be on a parity with taxes and assessments for  
87 the town.

88 (e) When all of said assessments for grading, paving and  
89 curbing, or macadamizing, or other permanent improvements  
90 shall be paid in full to the treasurer, he shall deliver to the owner  
91 of said property a release of the lien therefor, which may be  
92 recorded in the office of the clerk of the county court as other  
93 releases of liens are recorded. ,

94 Under this plan for the payment of the cost of such per-  
95 manent improvements of avenues, streets, roads and alleys, and  
96 the construction of sewers, the contractor (if the work is let to  
97 contract) shall look only to the town for the payment of the  
98 work, and in no sense to the abutting land owners.

99 (f) The council may contract for such paving (including  
100 grading and curbing), or other said improvements to be as afore-  
101 said, and may acquire or take land for street purposes, as afore-  
102 said, and may, if council so elects, stipulate that the costs thereof,  
103 in whole or in part, shall be paid in installments by the abutting  
104 property owners, as provided in (a) of section fifty so specially  
105 benefited property owners, as provided in (g) of said section, in  
106 five equal installments, to be evidenced by five paving certificates  
107 issued therefor, payable in thirty days and one, two, three and  
108 four years, respectively, after the date of their issue, and shall  
109 bear interest not to exceed six per centum per annum, payable  
110 annually, or if the council deems best, in ten equal installments,  
111 to be evidenced by ten paving certificates issued therefor, pay-  
112 able in thirty days, and one, two, three, four, five, six, seven, eight  
113 and nine years, respectively, after the date of their issue, and  
114 shall bear interest not to exceed six per centum per annum, pay-  
115 able annually, which certificates to be signed by the mayor

116 and recorder, or other person or persons designated of record by  
117 the council, may be sold, either to the contractor doing the paving  
118 or other of said improvements, or to any other person, and which  
119 shall cover the entire cost of such work, or the cost of acquiring or  
120 taking land for street purposes, including the cost of surveys,  
121 notices and other things pertaining thereto; *provided*, the town  
122 in negotiating and selling such certificates, shall not be held as  
123 guarantor or in any way liable for payment thereof, except upon  
124 the action of the council as expressed by resolution of record be-  
125 fore such sale. And the certificates covering the amount of the  
126 assessment shall be paid by the owner of the land, lot or fractional  
127 part thereof, so assessed for the cost of said improvement on such  
128-29 street, road or alley so paved or improved, of land acquired or  
130 taken, as aforesaid. The amount specified in said assessment  
131 certificate shall be a lien as aforesaid in the hands of the holder  
132 thereof upon the lands, lot or part of lot assessed, and shall also  
133 be a debt against the owner of such real estate, and said amount  
134 shall draw interest from the date of said certificates, payable an-  
135 nually, and the payment of the debt may be enforced as provided  
136 by law for the collection of other debts, or such lien may be en-  
137 forced as provided in this act in the name of the holder of such  
138 certificates.

139 After a contract has been made by the council to pave or oth-  
140 erwise permanently improve any public road, avenue, street or  
141 alley in said town under this act, and the paving or other perma-  
142 nent improvements, or any stipulated part thereon, has been com-  
143 pleted, or the cost of acquiring or taking land, as aforesaid, has  
144 been ascertained, the council shall assess the amount each lot  
145 shall bear and shall make a written report, stating the number  
146 of lots and the blocks or tracts of land when not laid off into lots  
147 and the names of the owners of such lots or land when known,  
148 and the amount assessed thereon; and when the said council ap-  
149 proves said report, or modifies it and then approves it, a copy of  
150 said report, so adopted by the council, when certified to by the  
151 town recorder of said town, may be recorded in the clerk's office  
152 of the county court of Kanawha county in a trust deed book, and  
153 shall be a continuing tax lien upon the lot or land against which  
154 the assessment is made until the certificates as aforesaid are paid,  
155 except as otherwise provided in section sixty-one of this act, and  
156 the recorder shall index the same in the name of each lot or land  
157 owner mentioned therein.

Sec. 52. Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved or improved in such portion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets or alleys.

When the paving or improvement of any such avenue, street, road or alley, or portion thereof, shall have been completed, under the contract awarded therefor, the council shall cause the several frontages abutting thereon to be measured, and cause the assessment upon each owner of land abutting thereon to be calculated, showing the proper amount to be determined as provided in the foregoing plan; and the said council shall enter the same, together with the description of the lots of land as to location, frontage and ownership, upon its record, and direct on its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively, and when so approved and entered of record the same shall be and constitute an assessment against said owners and lots for such respective amounts.

Sec. 53. The council may, if it so elects, cause the costs of any such grading, paving, curbing or macadamizing or other permanent improvements, to be paid in the following manner, to-wit: Whenever the council shall contract for such paving or other permanent improvements to be done, and that it shall be paid in installments by the property owners, fronting on such streets, avenues, or alleys as aforesaid, the council may cause the mayor and town recorder to issue to the contractor doing the paving, or other said improvement, a certificate for each installment of the amount of assessment to be paid by the owner of the lot, or fractional part thereof, fronting on such street, avenue, road or alley; and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof, upon the lot or part of lot fronting on the street, avenue, road or alley so improved, and said amount shall draw interest from the date of said assessment, and the payment may be enforced as set out in this act, in the name of the holder of such certificate; and after a contract has

18 has been made by the council to pave or otherwise permanently im-  
19 prove any public highway, street or alley in said town, under this  
20 act, and paving or other permanent improvements, or any stipu-  
21 lated part thereof, has been completed, the said council shall assess  
22 the amount each lot shall pay for the improvement so made, and  
23 shall make a written report, stating the number of lots and the  
24 blocks and the names of the owners of such lots when known and  
25 the amount assessed thereon; and when the said council approves  
26 said report, or modifies it and then approves it, a copy of said re-  
27 port, so adopted by the board, when certified to by the town re-  
28 corder of said town, may be recorded in the clerk's office of the  
29 county court of Kanawha county, in the trust deed book, and shall  
30 be a continuing tax lien upon the lot against which the assessment  
31 is made, until the certificates as aforesaid are paid, and the record-  
32 er shall index the same in the name of each lot owner mentioned  
33 therein; and upon the presentation by the lot owner of all the cer-  
34 tificates issued as aforesaid against the lot owner, the clerk of  
35 said court shall mark upon the margin of the book in which said  
36 certified report is recorded, that the lien is released as to the lot  
37 mentioned in the certificate produced.

38       The council may order any such avenue, street, road or alley,  
39 between the curbs and between designated points, to be graded or  
40 graded and paved or otherwise permanently improved in the man-  
41 ner authorized and provided in section fifty hereof, and may order  
42 proper curbs of stone, cement or other suitable material to be set  
43 on both sides of the avenue, street or alley so paved or improved,  
44 and the entire cost of grading, paving and setting of curbs may be  
45 assessed to the owners of the lots or fractional parts of the lots  
46 fronting or bounding on such avenue, street or alley between such  
47 designated points in proportion to the distance so fronting or  
48 bounding owned by each, except the case of intersection, which  
49 shall be borne and paid by the city. The cost of such grading,  
50 paving and setting of curbs to be borne by the abutting owners as  
51 herein provided, shall be paid in installments as provided in section  
52 fifty-one hereof, and shall become liens and be enforceable as pro-  
53 vided by section fifty-one hereof and the work hereby authorized  
54 to be done by the council and the assessment therefor, hereby  
55 authorized to be made, shall be subject to sections fifty and fifty-  
56 one hereof, and the council shall proceed in relation thereto in ac-  
57 cordance with said sections fifty and fifty one.

Sec. 54. Upon the petition in writing of the owners of not

2 less than one-half in lineal feet of property abutting upon any  
3 avenue, street or alley in said town asking the council to grade,  
4 curb, pave or macadamize or otherwise permanently improve such  
5 avenue, street or alley, and offering in said petition to have their  
6 property so abutting as aforesaid assessed not only with their  
7 part of the cost of such improvements abutting upon their prop-  
8 erty as provided for in section fifty of 'this act, but also offering  
9 to have their said property proportionately assessed with the total  
10 cost of the paving, grading, curbing or macadamizing or other  
11 permanent improvements of the intersection of the avenue, street  
12 or alley so paved or otherwise permanently improved as petitioned  
13 for, the council may order such avenue, street or alley to be paved  
14 or otherwise permanently improved as provided in section fifty  
15 herein and the paving certificates issued to cover such intersection  
16 shall be made separate and the last certificate due against them  
17 and their property so agreed to be assessed; and the town may pay  
18 such last mentioned certificate, or may re-imburse the property  
19 owners paying the same, out of the general levy for streets and  
20 wharves, but there shall be no legal obligations on said town to  
21 do so.

*Sewer Assessment.*

Sec. 55. The terms "sewer," and "sewering," as employed  
2 in this act, shall be construed in their most comprehensive sense,  
3 so as to authorize and include mains, laterals, connections, traps,  
4 incinerating and disposal plants, as well as the paving, repair-  
5 ing and improving streets, and all other necessary, convenient  
6 and useful accessories to a modern, sanitary, and efficient sew-  
7 erage system. But it is understood that should a sewer be laid  
8 in a street, highway or alley of the town, which has not been  
9 permanently paved, that then the terms above shall not include  
10 the paving, repairing and improving thereof.

11 Whenever the council shall deem it expedient to construct  
12 public sewer in any one or more town blocks, or any part thereof,  
13 or in any street or alley, or any part of a street or alley; or to  
14 provide at once adequate incinerating and disposal plants, or any  
15 part thereof, for said town, it shall so order, and the improve-  
16 ment thus ordered shall be made in accordance with the follow-  
17 ing conditions, to-wit:

18 (1) The council shall adopt a general, comprehensive plan  
19 for sewerage and sewage disposal inclusive of a proper outlet or

20 incinerating and disposal plants, approved by some competent  
21 sewerage engineer, and of sufficient capacity to serve the whole  
22 territory within the town limits.

23       (2) Upon the adoption of such plan the council shall fix  
24 by order, the time when and place where the work upon such  
25 improvement shall be begun, and whether the same shall be  
26 undertaken as a whole, or, for the time being, confined to cer-  
27 tain designated sections, blocks, squares and streets; and if less  
28 than the whole improvement be authorized, the construction of  
29 such part or parts thereof as shall be so ordered shall be executed  
30 in accordance with the specifications therefor embraced in said  
31 general plan, so that when completed the whole shall form a  
32 properly co-ordinated system conforming to said general plan.

33       (3) The contract for such work, whether for the whole or  
34 for parts of said system, shall be submitted to competitive bid-  
35 ding, after an advertisement of not less than once a week for  
36 two successive weeks in two newspapers of general circulation in  
37 said town, and awarded to the lowest and best responsible bid-  
38 der. The council, however, shall have the right to reject any  
39 and all bids; and no contract shall be made in pursuance of this  
40 authority except upon the express condition that, before the  
41 same becomes binding upon the town, the contractor, or some  
42 one for him, shall enter into and acknowledge bond, with security  
43 to be approved by the council, in a penalty double the price  
44 named in the contract for the work therein specified, with con-  
45 ditions that he will faithfully perform the duties and promptly  
46 and skillfully perform and complete the work provided for in  
47 said contract, and pay all costs and damages that may be sus-  
48 tained by said town or by any citizen, inhabitant, resident or  
49 taxpayer thereof, in respect to both persons and property, in  
50 the execution thereof, and save it and them harmless in the  
51 premises. If the council should reject all bids, it may cause the  
52 work to be done by the town, by proper ordinance, under the  
53 direction of the mayor and the supervision of the commissioner  
54 of streets.

55       (4) The contractor shall look alone to the town for pay-  
56 ment for the work covered by such contract.

57       (5) The contractor shall receive payment for his services,  
58 not to exceed the contract price, at such times and in such sums  
59 as the council may by said contract prescribe; but ten per cen-  
60 tum, at least, of the contract price shall be retained by the



61 council for ninety days after the completion of the work speci-  
62 fied in the contract as additional security for the proper exe-  
63 cution of the work. The contract may contain all such other  
64 safeguards, limitations, provisions and conditions, as are usual  
65 and as to the council may seem fair and right.

66 (6) The total cost of the disposal and incinerating plants,  
67 including the acquisition and purchase of the ground, if any,  
68 necessary therefor, as well as the acquisition and purchase of  
69 any other real estate necessary to the work as a whole, shall be  
70 borne by the town.

71 (7) The total cost of laying sewers in public squares,  
72 and in squares formed by the intersection of streets and alleys,  
73 shall be borne by the town.

74 (8) The total cost of all other work and material inci-  
75 dental to the laying of such sewer or sewers in any town block  
76 or blocks, and in the streets and alleys of the town not herein  
77 made a special charge against the town, shall be borne and paid  
78 by the abutting property owners on either side of such portion  
79 of any avenue, street, road or alley so sewered in proportion of  
80 such total cost as the frontage in front of their abutting land  
81 bears to the total frontage of all the land so abutting on said  
82 avenue, street, road or alley in which such sewer is to be con-  
83 structed; except that corner lots shall be estimated on a basis  
84 not exceeding one hundred and fifty feet in depth.

85 (9) When said sewer is completed, in whole or in part,  
86 and connected up with the disposal plant, or other outlet, ready  
87 for use, then, as to so much and such part or parts thereof as  
88 have been so completed and connected up, the town engineer or  
89 other person or persons having said work in charge, shall report  
90 to the council in writing the total cost, together with a descrip-  
91 tion of the lots and lands abutting thereon, their location,  
92 frontage, depth and ownership, so far as ascertainable, with the  
93 amount chargeable against each lot and owner thereof estimated  
94 on the basis above named. The council shall verify said report,  
95 and correct any errors that appear upon the face thereof, and  
96 give notice by publication once a week for two successive weeks  
97 in some newspaper of general circulation published in said town  
98 that, on a day named in said notice, an assessment under this  
99 act will be laid against abutting property and the owners thereof  
100 in the amounts and against the owners, respectively, appearing in  
101 said report, for the sewers constructed in the blocks, streets and

102 alleys in the notice designated. Any owner or owners of abut-  
103 ting property shall have the right to appear before the council  
104 on or before the day fixed in said notice and move the review  
105 and revision of any such proposed assessment. The council  
106 shall have the power, in its discretion, to make any proper cor-  
107 rection and adjustment of the proposed assessment complained  
108 of; *provided*, the application therefor be made within the time  
109 limited by said notice, but not, if made afterwards. At the  
110 expiration of the time fixed by said notice if no application  
110-a for review or revision of any assessment be pending  
111 or, if pending, then upon the determination thereof, the council  
112 shall proceed to lay an assessment on the basis aforesaid against  
113 the lots and lands abutting on such sewer, and the respective  
114 owners thereof, and cause the same to be entered upon its rec-  
115 ords, together with a description thereof substantially as re-  
116 ported by said commissioner, and from the date of such entry  
117 the amounts so reported, laid and found, shall constitute an  
118 assessment against the lots and lands, and the owners thereof,  
119 and in the amounts therein named, respectively.

120 It is expressly *provided, however*, that in apportioning said  
121 cost the amount assessed against the abutting property owner  
122 shall in no case exceed a sum equal to a charge of one dollar  
123 and twenty cents per\*front foot for inside and one dollar and  
124 seventy-five cents per front foot (calculated to a depth of not  
125 exceeding one hundred and fifty feet) for corner lots.

126 A copy of the order making such assessment, certified by  
127 the town recorder, shall be filed for record with the clerk of  
128 the county court of Kanawha county, and be recorded and in-  
129 dexed by him in the proper deed-of-trust book, or judgment lien  
130 docket, in the name of each owner against whose property as-  
131 sessments appear therein.

132 Immediately upon the entry of such assessments the council  
133 shall certify the same to the treasurer for collection, and from  
134 the time of filing the same for record in the office of the clerk  
135 of the county court such assessments shall be a lien against the  
136 lots and lands in respect to which the assessment was made.

137 The amounts so assessed against said lots and lands and  
138 the owners thereof shall be payable in ten installments as fol-  
139 lows: One-tenth thereof within sixty days from the date the  
140 same is certified to the treasurer for collection; one-tenth thereof,  
141 with interest from date of entry, on the first day of May next.

142 ensuing; and one-tenth thereof, with interest from the date of  
143 entry, payable May first of each year, on the first of May in each  
144 year thereafter, until the whole thereof shall have been paid;  
145 *provided, however,* that any owner or owners so liable for any  
146 part of the costs of such sewers shall have the right at any time  
147 within sixty days after certification as aforesaid, to anticipate  
148 the payment of such installments, or any of them, and to dis-  
149 count the same for cash on the basis of two and one-half per  
150 cent. To each of said installments remaining unpaid at ma-  
151 turity, or to any part thereof, a penalty of five per cent shall be  
152 added, in addition to the interest, and payment thereof enforced  
153 in all respects as provided for the collection of other town levies;  
154 all of which charges, assessments and penalties shall be a lien  
155 upon the property liable therefor the same as other town levies  
156 and enforced in the same manner. The liens herein provided  
157 for shall have priority over all other liens, except for state and  
158 county levies, and shall be on a parity with other taxes and  
159 assessments made for the benefit of the town. Upon payment of  
160 any such assessment the treasurer shall deliver to the party  
161 making payment a release of the lien therefor substantially in  
162 the form and to the effect provided by the statutes of West Vir-  
163 ginia for the release of liens created by deeds of trust, judg-  
164 ments, or otherwise, which shall be admitted to record by the  
165 clerk of the county court in the same manner as other releases,  
166 should such assessment not be paid to the treasurer, or being  
167 paid to him not be turned over by him to the treasurer, and it  
168 be made to appear to the satisfaction of the council that the  
169 same has been actually paid to any person authorized to receive  
170 the same, the council may direct the mayor or recorder, or treas-  
171 urer or other person specially designated for the purpose, to exe-  
172 cute a release of the lien securing the same, and the recordation  
173 thereof shall release said lien.

174 (10) The owner or owners of any lot abutting upon any  
175 street in said town in which a public sewer is or may hereafter  
176 be laid and constructed, on which lot any business or residence  
177 building is or shall hereafter be erected, and which building is  
178 not otherwise lawfully connected with a public sewer, a part of  
179 the sewerage plan aforesaid, may be required and compelled by  
180 the council, or by the board of health of the town, to connect  
181 such building with such sewer. Notice to so connect shall be  
182 deemed sufficient if given to the owner, lessee, or occupant of

183 such building. Each day's failure to comply with such notice,  
184 and to make such connection by such owner or owners, after the  
185 lapse of ten days from the day such notice is given, shall be a  
186 misdemeanor, and a separate and new offense under this act,  
187 and each such offender shall be punishable, on conviction by a  
188 fine of not less than five dollars nor more than twenty-five dol-  
189 lars. Jurisdiction to hear, try, determine and sentence for vio-  
190 lations of this section is vested in the police court of said town.  
191 Notwithstanding anything herein, however, if said owner or  
192 owners shall fail to comply with such notice, the council may  
193 also, by ordinance, order such connection to be made at the  
194 expense of the owner, and the cost thereof to be certified to the  
195 clerk of the county court of Kanawha county for record, and  
196 the same shall constitute a lien upon the lots and lands of said  
197 owner or owners abutting on such sewer from the date of filing  
198 said certificate for record with the same force and effect and  
199 with the same penalties and remedies as in the case of the as-  
200 sessments hereinbefore provided for.

201       (11) Whenever the council deems it expedient to per-  
202 manently pave or re-surface any street or alley, or any part  
203 thereof, of said town, not then served by a public sewer, and it  
204 is in the interest of economy that a sewer should first be laid  
205 therein, in anticipation of being later made a part of the general  
206 sewerage system hereinbefore mentioned, it shall have the power,  
207 and it is hereby authorized, to order the construction of such  
208 sewer and to assess against and collect of the abutting property  
209 owners the same proportion of the cost thereof, upon the same  
210 terms, with the same rights, remedies and penalties in all re-  
211 spects, as provided for the construction of the general sewerage  
212 system hereinbefore set forth; excepting, however, that the right  
213 to lay such assessments and to collect the same shall not be  
214 dependent upon the connection of such sewer with the disposal  
215 plant, or outlet, as a matter precedent to the payment therefor.

216       (12) The council of said town is also authorized and em-  
217 powered to order and cause to be constructed in said town, or  
218 part within and part outside the limits of said town, any public  
219 sewer, either main or lateral, or both, by contract, or direct by  
220 the town, for the benefit of said town or any part thereof, and to  
221 purchase land or easement therein, or to condemn land and ease-  
222 ment therein, in the manner provided in this act, for such sewer;  
223 and when the board shall order the construction of any such

224 sewer or any part thereof in said town, the owners of the prop-  
225 erty abutting thereon, or abutting upon an avenue, street, road  
226 or alley, in which such sewer shall be constructed, or abutting on  
227 any land or easement therein specially procured for the purpose  
228 of the construction of a sewer therein, may be charged with all  
229 or any part of the cost thereof, including the cost of such sewer  
230 at and across intersections at avenues, streets, roads and alleys  
231 adjacent thereto. If said work is let to contract, the provision  
232 of section fifty shall apply.

233       (13) When said sewer is completed in any block, or be-  
234 tween two designated points, the council shall cause a report to  
235 be made in writing, setting out the total cost of such sewer and  
236 a description of the lots or land as to location, frontage and own-  
237 ership liable therefor, including the cost of acquiring or taking  
238 land or easement therein for such purposes and cost of surveys,  
239 notices, etc., therefor, together with the amount chargeable  
240 against each lot or piece of land and the owner thereof. If any  
241 lot fronts on two streets, or on a street and a road, or on a street  
242 (or road) and alley, in which a sewer is constructed, it may be  
243 assessed on both said street, or street and road, or street and  
244 alley. Said council shall enter an order upon its records setting  
245 forth the location and owner of each lot or piece of land, and  
246 the amount of said sewer assessments there against, calculated  
247 in the same way as provided for street paving in section fifty  
248 herein. The entry of such order shall constitute and be an  
249 assessment for such proportionate amount so fixed therein against  
250 said respective lots and land and the owners thereof; and said  
251 board shall thereupon certify the same to the treasurer for col-  
252 lection; and for the purpose of facilitating the collection of such  
253 assessments against the properties herein, the council may issue  
254 assessment certificates, with interest coupons attached thereto,  
255 to be delivered to and charged against the town treasurer who  
256 shall collect the same, and as such certificates and coupons are  
257 paid he shall deliver the cancelled certificates to the party paying  
258 the same; and the town recorder shall file a certified copy of said  
259 order with the clerk of the county court of Kanawha county, who  
260 shall record same in the proper trust deed book, and index the  
261 same in the name of each owner of any lot or land thus charged  
262 with said assessment, and the assessments so made shall con-  
263 stitute and be a lien upon said lots or land, respectively, which  
264 shall have priority over all other liens except for taxes due the

265 state and county, and shall be on a parity with other taxes and  
266 assessments due the town.

267       (14) The amounts so assessed against said abutting lots  
268 or land, and which shall be a lien there against, shall be collected  
269 in the manner provided in this act for the collection of paving  
270 liens. Said assessments shall be divided into five installments,  
271 each for one-fifth of the amount thereof, and the first due and  
272 payable in thirty days, the second in one year, and the third in  
273 two years, the fourth in three years and the fifth in four years,  
274 from the time of certifying the same to the treasurer except as  
275 hereinafter provided in this section, all bearing interest at six  
276 per centum per annum from such date, payable annually; and  
277 the town council may issue sewer certificates thereon, as of said  
278 date, as further evidence of said indebtedness and lien therefor,  
279 and said certificates may be sold or negotiated, at not less than  
280 par and without any kind of discount, to the contractors doing  
281 such work, or other person if the board deem it expedient;  
282 *provided*, the town in negotiating and selling such certificates  
283 shall not be held as guarantor in any way liable for payment  
284 thereof, except upon the direct action of the council as expressed  
285 by resolution of record before such sale. But the owner of the  
286 land or lot so assessed may at any time anticipate and pay such  
287 assessment or certificate with interest thereon on the whole un-  
288 paid amount till the time when the next certificate shall be-  
289 come due. If such assessment shall not exceed fifteen dollars, it  
290 shall be in one amount, due and payable thirty days from date;  
291 if more than fifteen dollars and less than thirty dollars, then in  
292 two installments of equal payments, due and payable in thirty  
293 days and one year respectively, from date; and if more than  
294 thirty dollars, then in five equal installments and payable as  
295 first aforesaid.

296       *Provided*, the council may, if it so elects, order and cause  
297 the construction of any such sewer, and may acquire or take  
298 land or easement therein, either in or outside said town, or both,  
299 for said sewer purposes, and assess all or any part of the cost  
300 thereof upon and against the abutting, adjacent, contiguous and  
301 other lots or land especially benefited by the construction of  
302 such sewer, and said assessment shall be a lien upon such lots  
303 or lands, and a debt against the owners thereof for the amount  
304 so charged against them respectively, which debt may be col-  
305 lected as provided by law for the collection of other debts of

306 like kind, and which lien may be enforced in the same manner as  
307 provided for the enforcement of paving liens in this act.

308       The council, when it decides to order the construction of  
309 the sewer under this plan, shall, before doing the same, fix, by  
310 ordinance or resolution, the total amount of the special bene-  
311 fits to be derived from such improvements to the abutting, ad-  
312 jacent, contiguous, and other specially benefited land or lots  
313 so assessed, setting out the names of the owners, the amount of  
314 the special benefits, and the approximate amount of the total  
315 cost of the proposed sewer, and the board may, in fixing such  
316 assessments, take into consideration the assessed value of the  
317 lots or land as fixed, for the last assessment year, for state and  
318 county purposes.

Sec. 56. It shall be lawful for said town of South Charleston  
2 to issue and sell its bonds, as provided in this act for the sale of  
3 other paving and sewer bonds, to pay the town's part of the cost  
4 of the construction of said sewers and the paving or other perma-  
5 nent improvements of streets and alleys, as required by this act;  
6 and said town may levy taxes, in addition to all other taxes, au-  
7 thorized by law, to pay such bonds and interest thereon; *provided*,  
8 that the total indebtedness of the town for all purposes shall not  
9 exceed five per centum of the total value of all taxable property  
10 therein.

11       (a) It is especially provided that no bonds shall be issued  
12 under the provisions of this act, unless and until the question of  
13 issuing said bonds shall have first been submitted to a vote of the  
14 people of said town, and shall have received three-fifths of all  
15 votes cast at said election for and against the same. The council  
16 of said town may provide by ordinance for submitting to the  
17 people at any regular election, or special election called for that  
18 purpose, the question of whether or not said town shall be author-  
19 ized to issue bonds for the purpose specified in this act; but the or-  
20 dinance relating to the issuance of said bonds, and the submission  
21 of the same to the vote of the people, need not specify in detail the  
22 location of the improvements contemplated to be paid out of said  
23 aggregate issue authorized thereby; and if at such election the  
24 people, by their vote thereon, shall authorize the issuance of said  
25 bonds, said council may order the sale of same, as needed for said  
26 improvements, dealing with all the requirements set forth in this  
27 act; and notwithstanding the provisions of sections two, three and  
28 six of chapter forty-seven-a of the code, it shall be sufficient de-

29 scription of the purpose for which said election is held for the  
30 ordinance calling the same, or submitting said question to a  
31 vote at any general election, if it shall recite that it authorizes the  
32 council to issue bonds for the purpose of grading, paving, curbing,  
33 sewerage, or otherwise permanently improving the streets, roads  
34 and alleys of said town, at such times as to the council shall seem fit  
35 or expedient.

36 The provisions of chapter forty-seven-a of the code, concern-  
37 ing bond elections, shall, so far as they are not in conflict with the  
38 provisions of this chapter, apply to the bond election and special  
39 bond election herein provided for.

Sec. 57. For the purpose of leasing, purchasing or erecting  
2 owning, maintaining and operating a system of water works, elec-  
3 tric or other lighting systems for the town and the inhabitants  
4 and industries thereof, and the territory adjacent to the town of  
5 South Charleston which the council may from time to time agree  
6 to supply from the town water works or lighting system, as pro-  
7 vided for in this or any other act of the legislature, said town of  
8 South Charleston is hereby authorized to issue and sell its bonds,  
8-a which shall bear interest not to exceed six per cent per annum,  
9 interest payable annually, by which to procure funds for such pur-  
10 pose, and for said purpose the town may issue and sell its bonds to  
11 an amount equal to two and one-half per centum on the taxable  
12 property therein in addition to the aggregate of its debts for all  
13 other purposes, and of every kind whatsoever; *provided*, that the  
14 total indebtedness of said town for all purposes shall not exceed  
15 five per centum of the total value of all taxable property therein.

16 But said town shall not make such issue and sale of bonds  
17 without at the same time providing for the collection of a direct  
18 annual tax sufficient to pay annually the interest on such debt  
19 and the principal thereof within and not exceeding thirty years,  
20 and for the purpose of aiding in the payment of any bonds issued  
21 under the provisions of this act, to enable the town to lease, own,  
22 operate and maintain a water works and electric light-  
23 ing system, the council of the town are hereby authorized to lay a  
24 levy of not exceeding ten cents on the one hundred dollars valu-  
25 ation of all taxable property in the town, which said levy may be,  
26 in addition to the aggregate of all other levies authorized by law;  
27 and any revenue derived from said water works and electric light-  
28 ing system over and above the expense of operating and maintain-



29 ing the same, shall be applied to the payment of the bonds issued  
30 therefor.

Sec. 58. The cost of any improvement contemplated in this  
2 act and for which assessments may be made, shall include the cost  
3 and expenses of making the assessments, the expenses of the pre-  
4 liminary and other surveys, and of printing and publishing all no-  
5 tices required to be published and serving the notices on property  
6 owners, and the cost of construction.

7 Proceedings with respect to improvements shall be liberally  
8 construed by the council and the courts, to secure a speedy comple-  
9 tion of the work at a reasonable cost and the speedy collection of the  
10 assessments after the time has elapsed for their payments, and  
11 merely immaterial objection in such cases shall be disregarded.

Sec. 59. In setting forth the lots and lands abutting upon  
2 the improvements, it shall be sufficient to describe them as the lots  
3 and lands bounding and abutting upon said improvement between  
4 and including the termini of said improvement, or by the descrip-  
5 tion by which they are described on the land books of the county  
6 in which said lots are situate; and this rule of description shall  
7 apply in all proceedings in which lots or lands are to be charged  
8 with a special assessment.

Sec. 60. When work shall have been completed on any ave-  
2 nue, street, road or alley, or part thereof, as provided in section fifty  
3 or section fifty-one, or the construction of any sewer or other work  
4 shall have been completed on any avenue, street, road or alley, or  
5 part thereof, or elsewhere, as provided in section sixty-one, and said  
6 assessments thereagainst shall have been calculated as provided in  
7 this act, the council shall give notice, by publication at least once  
8 a week for two successive weeks in two newspapers of opposite  
9 politics, of general circulation, in said town, that an assessment  
10 under this act is about to be made against the property so assessed  
11 and the owners thereof, mentioning the kind of work and the  
12 location thereof, and the owners of said property shall have a right  
13 to appear before said council, either in person or by attorney or  
14 agent, at any regular or special meeting called for that purpose.

#### *Sidewalks and Shade Trees.*

Sec. 61. The council is authorized and empowered to cause to  
2 be put down a suitable curb of brick, stone or other material along  
3 and for the footways and sidewalks of the avenues, streets, roads

4 or alleys of said town, and to order and cause the laying or re-lay-  
5 ing or repair of sidewalks and gutters of such material and widths  
6 as the council may determine, and the planting or re-planting of  
7 and caring for shade trees along said avenues, streets, and roads  
8 at such points and in such manner as the council may determine,  
9 and to require the owners or occupiers of the land or lots or  
10 parts of lots facing upon said avenues, streets, roads or alleys to  
11 keep such side sidewalks clean and in good repair, and to grade  
12 the plot of ground on either side of the sidewalk between the street  
13 curb and the property line and keep the same sodded with grass  
14 and free of weeds and obstructions, and otherwise in good condi-  
15 tion and repair. The owners or occupiers of the land or lots abut-  
16 ting upon such avenues, streets, roads or alleys shall not lay any  
17 such sidewalk, curb or gutter, or plant any such shade trees, unless  
18 specially required to do so by resolution adopted by said council,  
19 and then only in the manner prescribed by said council, but said  
20 town may lay such sidewalk, curb or gutter and plant or re-plant  
21 and care for said shade trees, or may let said work to contract,  
22 and in either case the total cost of said work, or such part thereof  
23 as the council may direct, shall be charged upon and against the  
24 land or lots abutting upon such avenue, street, road or alley, which  
25 assessment shall be and remain a lien upon said land or lots the  
26 same as taxes levied upon real estate in said town, which lien may  
27 be enforced by a suit in equity before any court having jurisdic-  
28 tion as other liens against real estate are enforced. The amount  
29 so assessed against any land or lot shall also be a debt against the  
30 owner of such land or lot, which may be collected as other debts  
31 are collected, in any court having jurisdiction, and shall be due  
32 and payable in ninety days from the completion and acceptance of  
33 such work as certified to by the council, with six percent interest  
34 thereon from the date of such record acceptance. And in ascer-  
35 taining the amount to be assessed against any corner lot  
36 for the cost of laying any such sidewalk and planting trees in  
37 front or alongside thereof, the council may assess the total cost of  
38 laying such sidewalk, and planting trees, in front or alongside  
39 said lot and extended to the curb or gutter of the intersection of  
40 the avenues, streets, roads or alleys at that point.

41 When such work is done by the town, and not to contract, the  
42 council shall certify such assessments to the treasurer of the town  
43 for collection, who shall account for the same as directed by the  
44 council or by ordinance, and the treasurer shall accept payment,

45 when tendered, of the amount of said assessment with interest  
46 to the date of payment, and unless said assessments shall have  
47 been paid within ninety days from the date of such assessment,  
48 then a copy of such report shall be certified by the town recorder  
49 to the clerk of the county court of Kanawha county, who is hereby  
50 required to record and index the same in the proper trust deed  
51 book in the name of each person against whose property assess-  
52 ments appears therein. If any such assessment shall not be paid  
53 when due, the council shall cause to be enforced the payment of  
54 said assessment and interest in all respects as herein provided for  
55 the collection of taxes due the town; and said assessment shall be  
56 a lien upon the property liable therefor, the same as taxes, which  
57 lien may be enforced in the same manner as provided for the sale  
58 of property for the non-payment of taxes and tax liens; and the  
59 liens herein provided for shall have priority over all other liens  
60 except those for taxes due the state and county, and shall be on  
61 a parity with taxes and assessments due the town. When such  
62 assessment shall have been paid in full, and a lien therefor shall  
63 be of record in the county clerk's office, the treasurer shall execute  
64 and deliver to the owner of said property a release of said lien,  
65 which may be recorded in the office of the county clerk as other  
66 releases of liens are recorded.

67 The council may, if it so elect, let said work to contract, and  
68 certificates may be issued for the amount of said assessments  
69 which may be sold to the contractor doing the work, or other per-  
70 son in full of the total cost, in the same manner as provided for  
71 paying certificates in section fifty-three herein; *provided*, the  
72 town, in negotiating and selling such certificates, shall not be  
73 held as guarantor or in any way liable for payment therefor, ex-  
74 cept upon the direct action of the council as expressed by resolu-  
75 tion of record before such sale. Said certificates, to be signed by  
76 the mayor or town treasurer, or other person or persons designated  
77 of record by the council, shall bear date as of the time when such  
78 work is accepted and certified by the council, and shall be due and  
79 payable in ninety days from date hereof, with six per cent interest.  
80 When the council shall have received said work, it shall at the  
81 same time make said assessments upon written report; and at the  
82 end of ninety days from date thereof, upon the demand in writ-  
83 ing filed with the town treasurer of the holder or holders of the  
84 unpaid certificates issued to cover said assessments, said town  
85 treasurer shall certify a copy of said report, only in so far as it re-

86 lates to the owners against whom said exhibited certificates re-  
87 main unpaid, to the clerk of the county court of Kanawha county,  
88 who shall record and index the same as other liens of like kind are  
89 recorded and indexed, and the same shall be and remain a lien  
90 upon the real estate against which said assessments are made, as  
91 set out in said certified report and said lien may be enforced, in  
92 the name of the holder of such certificate in the same manner as  
93 set out in section fifty-three in this act.

94 Before letting such work to contract, the council shall adver-  
95 tise the same once a week for two consecutive weeks in two news-  
96 papers of opposite politics in the town of South Charleston, of  
97 general circulation, setting out the time and place for receiving  
98 proposals for such work and referring to the specifications made  
99 therefor; and the town reserve the right, whether stated in such  
100 notice or not, to refuse any and all bids for the work. On re-  
101 fusals of said papers to publish said notice at reasonable rates,  
102 the council may, by resolution, direct how such notice may be  
103 given. The fact that such contract shall be awarded for said  
104 work shall be *prima facie* proof that said notice was given as  
105 required herein. Such lien, as represented by certificate, may  
106 be released of record in the office of the county clerk in the same  
107 manner as paving liens, represented by certificate, are released  
108 of record, as provided for in section sixty-two herein; and in no  
109 event shall such assessment be and remain a lien in said certified  
110 report so recorded in the office of the county clerk, unless at the  
111 end of said one year period a suit shall be pending for the en-  
112 forcement of said lien, or the amount thereof shall, in some way,  
113 be involved in a suit pending at the end of said one year period.

114 All such work, whether done by the town direct, or through  
115 contractors, shall be under the supervision of the street depart-  
116 ment of the town or some person designated for that purpose by  
117 the council.

118 If the owner or occupier of any such lot or land shall be re-  
119 quired by the council to lay or re-lay, clean or repair any such  
120 sidewalk, curb or gutter, or shall be required to grade the space  
121 on either side of the sidewalk between the street curb and the  
122 property line, and keep the same sodden and free from weeds or  
123 obstruction, and otherwise in good condition and repair, written  
124 or published notice shall be given to such owner or occupier in the  
125 manner provided by ordinance or resolution adopted by the coun-  
126 cil, and the neglect or refusal of such owner or occupier to do the  
127

128 work, in the manner and within the time required by the council,  
129 as set out or referred to in said notice, shall be an offense and  
130 may be punished as provided by ordinance; and after the expira-  
131 tion of the time set out in said notice for the doing of said  
132 work, and the same remains undone, the council may do or cause  
133 to be done, said work and assess and collect the cost thereof in the  
134 manner, upon either plan, and to the full extent set out in this  
135 section.

*Release of Lines.*

Sec. 62. In addition to the provisions for the release of  
2 said assessment liens, either for street paving or other per-  
3 manent street improvements, or construction of sewers, as else-  
4 where set out in this act, on the presentation by the land  
5 or lot owned of any of the certificates issued as aforesaid against  
6 him or his predecessor in title to such lot, the clerk of the county  
7 court shall mark upon the margin of the trust deed book at which  
8 said certified report is recorded, that the lien is released to the  
9 land or lot mentioned in such certificate to the extent of the  
10 amount of the certificates thus exhibited; and the county recorder  
11 shall thereupon write across the face of each of said certificates  
12 the date of their production to him for the release of lien and  
13 shall sign his name thereto in his official capacity for which he  
14 shall receive in advance a fee of twenty-five cents for each certi-  
15 ficate so marked, from the person demanding the release of the  
16 lien aforesaid; but if more than one of the serial certificates  
17 against the land or lot or lots shall be produced at the same time,  
18 the fee of the county recorder shall not exceed twenty-five cents  
19 for the release of the liens as to all of the certificates thus produced  
20 and relating to the same real estate.

21 *Provided*, that the owner of any lot or land against which  
22 any paving or sewer certificate is an unreleased lien of record  
23 shall make and produce to the county recorder an affidavit, or  
24 some person for such owner shall make and produce such affida-  
25 vit, setting out therein that such certificate (or certificates) has  
26 been paid in full, and after diligent search, cannot be found, said  
27 county recorder shall, upon the payment of a fee of twenty-five  
28 cents, file and preserve said affidavit as a public document and  
29 shall forthwith note the release of said lien to the extent of said  
30 lost certificate (or certificates) and the lots or land against which

31 it is a lien upon the margin of the trust deed book, as aforesaid,  
32 and noting therewith the filing of said affidavit, which shall  
33 operate as a release of such lien to the extent of such marginal  
34 notation. If the affidavit so filed be false, the person making  
35 oath and subscribing thereto shall be guilty of a felony, and up-  
36 on conviction thereof shall be fined not to exceed five hundred  
37 dollars, or sentenced to be confined in the penitentiary for a  
38 term of not more than one year, or both, in the discretion of the  
39 court passing sentence.

40 *Provided, further,* that any paving or sewer lien, which may  
41 be created in consequence of the provision of this act, or any  
42 lien, which may have heretofore been created in consequence of  
43 an act of which this is an amendment, for an assessment, the  
44 last payment of which is not yet due, shall not, under any cir-  
45 cumstances, be a lien against the lot or land or fractional part  
46 of the lot or land, against which it may have been assessed and  
47 made a lien, for a longer period than one year after the last  
48 assessment or certificate of the same date and group, represent-  
49 ing such lien, shall have become due and payable, unless some  
50 suit or action, at the termination of said one year period, shall  
51 be pending for the enforcement of such lien, or unless the amount  
52 of the lien or some part thereof is in some way involved in a  
53 suit or action pending at the end of said one year period; and  
54 further, that no such paving or sewer lien heretofore placed  
55 to record in said county court clerk's office for an assessment,  
56 the last payment of which is past due, shall remain or be a lien  
57 against the real estate therein described for a longer period  
58 than one year from the time this act takes effect, unless a suit  
59 shall be pending at the end of each one year period for the en-  
60 forcement of said lien, or the amount thereof shall in some way  
61 be involved in some action then pending.

62 All of the assessment certificates, which may be issued under  
63 the provisions of this act, shall be made payable at the office of  
64 the treasurer, who shall receive payments thereon when due if,  
65 tendered to him, and interest thereon from the date of such  
66 payments shall cease. The treasurer shall keep a separate and  
67 special account of all said sums of money received by him, and  
68 he shall hold said money in trust for the person who thereafter  
69 deliver to the treasurer for cancellation any and all certificates  
70 on which said treasurer has received full payment as required;

71 but the owner of said certificates shall not be entitled to interest  
72 on said sum after the date of payment thereof to the treasurer.  
73 When the whole amount of any such assessment lien shall have  
74 been paid to the treasurer as aforesaid, or the treasurer shall be  
75 convinced that all of the paving or sewer certificates against any  
76 land, lot or fractional part of lot, shall have been paid in full,  
77 he shall, when demanded, execute a release of said lien in the  
78 manner hereinbefore provided for the release of paying liens.

Sec. 63. All existing ordinances of the town of South  
2 Charleston not inconsistent with this charter or applicable  
3 under the altered form of municipal government provided by this  
4 charter shall be and continue in full force and effect as ordinances  
5 of the town of South Charleston, until amended or repealed or  
6 until they expire by their own limitations; and no existing right,  
7 action (civil or penal), suit or proceedings, or contracts, shall  
8 be effected in the change of the form of government of the terri-  
9 tory set out in section two of this act; but all shall continue  
10 as though no such change had taken place; and all debts, penal-  
11 ties and forfeitures which have accrued, or which may hereafter  
12 accrue by virtue of anything heretofore done or existing, shall  
13 inure to the benefit of the town and may be sued for and recov-  
14 ered by said town as though this charter had not been adopted.  
15 Nothing herein, however, shall legalize or make legal any invalid  
16 indebtedness of the town of South Charleston heretofore contract-  
17 ed or incurred or impair any defense against the payment of the  
18 same; nor shall the adoption of this charter in any wise interfere  
19 with any proceedings heretofore instituted relating to the levy and  
20 collection of taxes, special assessments, or levies of any nature,  
21 or with any proceedings to enforce the payment of the same, and  
22 all contracts heretofore entered into by the town of South Charles-  
23 ton shall remain in full force and effect and be completed under  
24 ordinances existing at the time of the adoption of this charter.

Sec. 64. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

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## House Bill No. 44

AN ACT to amend and re-enact chapter three of the legis-  
lature of one thousand nine hundred and nine, incorporating the

city of Huntington, as amended by chapter seventy-three of the acts of the legislature of one thousand nine hundred and thirteen, and chapter seven of the acts of the legislature of one thousand nine hundred and fifteen, and to repeal certain sections of the said chapters of said acts, and to repeal all acts or parts of acts inconsistent with the provisions of this act, and to consolidate into one act the whole charter of the city of Huntington.

*Be it enacted by the Legislature of West Virginia:*

That chapter three of the acts of the legislature of West Virginia of one thousand nine hundred and nine, incorporating the city of Huntington, as amended by chapter seventy-three of the acts of the legislature of West Virginia of one thousand nine hundred and thirteen, and as amended by chapter seven of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, be amended and re-enacted, and that certain sections of the said chapters and acts be repealed, and that all acts and parts of acts inconsistent with the provisions of this act be repealed, and to incorporate and consolidate into one act a charter for said city of Huntington as constituted by this act to read as follows:

## ARTICLE I.

### *The City of Huntington.*

Section 1. That part of the county of Cabell included in the limits hereafter mentioned in section two is hereby made a city corporate and body politic by the name of "The City of Huntington," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, and purchase, lease, sell and hold real and personal property necessary to the purposes of said corporation.

Sec. 2. The corporation territory limit of the city of Huntington shall be as follows, to-wit:

Beginning at a stake at low water mark on the Ohio river (southerly side thereof), about one-half mile above the mouth of Four Pole Creek, and at the intersection of the easterly line of the Williams land with said low water mark; thence easterly and up the Ohio river, with low water mark thereof, to its intersection with low water mark of the easterly side of the Guyandotte river; thence southerly, with the low water mark of the Guyandotte river, with the easterly side thereof, to a point directly opposite the mouth of the Crump branch, a tributary of said Guyandotte



12 river on the westerly side thereof; thence westerly in a straight  
13 line and crossing Guyandotte river to the mouth of said Crump  
14 branch; thence southerly with the westerly line of the Isaac Cump  
15 lands to what is known as the Military line; thence westerly with  
16 said Military line to its intersection with the south-easterly cor-  
17 poration line of the city of Huntington as heretofore constituted  
18 by chapter one hundred and fifty of the acts of the legislature of  
19 one thousand nine hundred and one, it also being the easterly line  
20 of the lands of the Huntington Land Company (formerly the  
21 Central Land Company of West Virginia); thence with said  
22 corporation line (and likewise line of said land company), in a  
23 south-westerly direction, crossing Four Pole creek, to the south-  
24 east corner of the lands of said land company (and likewise the  
25 south-east corner at said corporation boundary); thence following  
26 the lines of said corporation line (and likewise the lines of said  
27 land company), in a westerly and northerly direction, respectively,  
28 to and crossing said Four Pole creek to the north bank thereof;  
29 thence in a westerly direction and down Four Pole creek with  
30 the north bank thereof, to the intersection of said creek with the  
31 southerly line of the right of way of the Chesapeake and Ohio  
32 Railway company; and continuing **westerly with said southerly**  
33 **line of said railway right of way** to its intersection with the  
34 **easterly line of the Williams land; thence northerly with sai**  
35 **easterly line of said Williams land** to the beginning, and the  
36 corporate limits of the city of Huntington as defined and em-  
37 braced within this act and charter shall be and remain unchanged  
38 hereby and in exact accordance with the limits thereof prior to  
39 the passage and at the time of the passage of this act.

*Boundaries of Wards.*

Sec. 3. The territory of said city shall be divided into seven

2 (7) wards, and such divisions shall be as follows:

3 First ward—To include the territory lying west of First street  
4 east, projected southerly to the south corporation line.

5 Second ward—To include the territory lying east of First  
6 street and west of Tenth street, and between the Ohio river and  
7 the Chesapeake and Ohio right of way.

8 Third ward—To include the territory east of Tenth street and  
9 west of Seventeenth street, between the Ohio river and the Chesa-  
9-a peake and Ohio right of way.

10 Fourth ward—To include the territory east of Seventeenth

11 street and west of Twenty-eighth street, between the Ohio river  
12 and the Chesapeake and Ohio right of way.

13 Fifth ward—To include the territory east of Twenty-eighth  
14 street between the Ohio river and Chesapeake and Ohio right of  
15 way to Guyandotte river, and that portion of the city of Hunting-  
16 ton east of Guyandotte river.

17 Sixth ward—To include the territory east of First street and  
18 west of Sixteenth street between the Chesapeake and Ohio right of  
19 way and the south corporation line.

20 Seventh ward—To include the territory east of Sixteenth  
21 street to Guyandotte river, and between the Chesapeake and Ohio  
22 right of way and the south corporation line.

23 It is *provided, however*, that the board of commissioners here-  
24 after provided for, after the expiration of three years from the  
25 time this act takes effect, may, by ordinance, fix the boundaries and  
26 increase the number of wards, but such ordinance shall not be  
27 effective until it is confirmed by the citizens' board by a majority  
28 of said board.

## ARTICLE II.

### *Municipal Authorities.*

Sec. 4. The municipal authorities of the city of Huntington  
2 shall be four commissioners and a mayor, who shall constitute a  
3 board of commissioners, and shall be known as the "Board of Com-  
4 missioners of the City of Huntington."

### *Corporate Powers.*

Sec. 5. All the corporate powers of said city shall be vested in  
2 and exercised by the board of commissioners, or under its authority,  
3 except as otherwise provided in this act.

Sec. 6. The board of commissioners of said city shall have  
2 and are hereby granted power to have said city surveyed; to open,  
3 vacate, broaden, change grade of, grade and pave streets, side-  
4 walks and gutters, for public use, and to alter, improve, embellish  
5 and ornament and light the same, and to construct and maintain  
6 public sewers and laterals, and shall in all cases have power and  
7 authority to assess upon and collect from the property benefited  
8 thereby such part of the expense thereof as shall be fixed by ordi-  
9 nance, except as hereinafter provided; to have control of all  
10 streets, avenues, roads, alleys and grounds for public use in said  
11 city, and to regulate the use thereof and driving thereon, and to

12 have the same kept in good order and free from obstruction, pol-  
13 lution or litter on or over them; to have the right to control all  
14 bridges within said city, and the traffic passing thereover; to  
15 change name of any street, the renumbering of houses on any  
16 street, avenue or road therein; to regulate and determine the  
17 width of streets, sidewalks, roads and alleys; to order and direct  
18 the curbing and paving of sidewalks and footways for public use  
19 in said city, to be done and kept clean and in good order by the  
20 owners of adjacent property; to enter into a contract with any  
21 internal improvement company for the joint ownership of any  
22 bridge by the city, and such company, upon such terms as may  
23 be prescribed in the contract, but such bridge shall be a public  
24 highway, and the interest of the company shall be only such pro-  
25 portionate part thereof as it may pay for; to prohibit and punish  
26 the abuse of animals; to restrain and punish vagrants, mendi-  
27 cants, beggars, tramps, prostitutes, drunken or disorderly persons  
28 within the city, and to provide for their arrest and manner of  
29 punishment; to prohibit and punish by fine, the bringing into the  
30 city by steamboats, railroads, or other carriers, of paupers, or  
31 persons afflicted with contagious diseases; to control and suppress  
32 disorderly houses, houses of prostitution or ill fame, houses of  
33 assignation and gaming houses, or any part thereof, and to punish  
34 gaming; to prohibit within said city or within one mile thereof  
35 slaughter houses, soap, or glue factories and houses of like kind;  
36 to control the construction and repair of all houses, basements,  
37 walls, bridges, culverts and sewers, and to prescribe and enforce  
38 all reasonable regulations affecting the construction regulations  
39 of the same and to require permits to be obtained for such build-  
40 ings and structures, and plans and specifications to be first sub-  
41 mitted to a city architect or building inspector; to control the  
42 opening and construction of ditches, drains, sewers, cesspools and  
43 gutters, and to deepen, widen and clear the same of stagnant  
44 water or filth, and to prevent obstruction therein, and to deter-  
45 mine at whose expense the same shall be done; to build and main-  
46 tain fire station houses, police stations, and plice courts, and to  
47 regulate the management thereof; to acquire, lay off, appropriate  
48 and control public grounds, squares and parks, either within or  
49 without the city limits as hereinafter defined, and, when the board  
50 of commissioners determines that any real estate is necessary to  
51 be acquired by said city for any such purposes, or for any public  
52 purpose, the power of eminent domain is hereby conferred upon

53 said city, and it shall have the right to institute condemnation  
54 proceedings against the owner thereof in the same manner, to the  
55 extent and upon the same conditions as such power is conferred  
56 upon public corporatoins by chapter forty-two of the code of West  
57 Virginia, of the edition of one thousand nine hundred and six,  
58 and as now amended; to purchase, sell, lease or contract for and  
59 take care of all public buildings and structures and real estate,  
60 including libraries and hospitals, deemed proper for the use of  
61 said city; and for the protection of the public; to cause the re-  
62 moval of unsafe walls, or buildings, and the filling of excavations;  
63 to prevent injury or annoyance to the business of individuals from  
64 anything dangerous, offensive or unwholesome; to abate or cause  
65 to be abated all nuisances, and to that end and thereabout to sum-  
66 mon witnesses and hear testimony; to regulate the keeping of gun  
67 powder and other combustible or dangerous articles; to regulate,  
68 restrain or prohibit the use of firecrackers or other explosives or  
69 fireworks, and all noises or performances, which may be dan-  
70 gerous, annoying to persons or tend to frighten horses or other  
71 animals; to provide and maintain proper places for the burial of  
72 the dead, and to regulate interments therein upon such terms and  
73 conditions as to price and otherwise as may be determined; to  
74 provide for shade and ornamental trees and the protection of the  
75 same; to provide for the making of division fences; to make  
76 proper regulations for guarding against danger of damage from  
77 fires; to provide for the poor of the city, and to that end may con-  
78 tract with the proper authorities of Cabell county to keep and  
79 maintain the poor or any number thereof, upon terms to be agreed  
80 upon; to make suitable and proper regulations in regard to the use  
81 of the streets and alleys for street cars, railroad engines and cars,  
82 and to regulate the running and operation of the same as to pre-  
83 vent injury, inconvenience or annoyance to the public; to prohibit  
84 prize fighting, cock and dog fighting; to license, tax, regulate or  
85 prohibit theaters, circuses, the exhibit of showmen and shows of  
86 any kind, and the exhibition of natural or artificial curiosities,  
87 caravans, menageries and musical exhibitions, and performances,  
88 and other things or business on which the states does or may exact  
89 a license tax, to organize and maintain fire companies and to  
90 provide necessary apparatus, engines, and implements for the  
91 same; to regulate and control the kind and manner of plumbing  
92 and electric wiring for the protection of the health and safety of  
93 said city; to levy taxes on persons, property and licenses; to

94 license and tax dogs and other animals, and regulate, restrain and  
95 prohibit them and all other animals and fowls running at large;  
96 to provide revenue for the city and appropriate the same to its  
97 expenses; to adopt rules for the transaction of business and for  
98 its own regulation and government; to promote the general wel-  
99 fare of the city, and to protect the persons and property of citi-  
100 zens therein; to regulate and provide for the weighing of produce  
101 and other articles sold in said city and to regulate the trans-  
102 portation thereof, and other things, through the streets; to have  
103 the sole and exclusive right to grant, refuse or revoke any and  
104 all licenses for the carrying on of any business within said city  
105 on which the state exacts a license tax; to establish and regulate  
106 markets and to prescribe the time for holding the same; and  
107 what shall be sold in such market, and to acquire and hold  
108 property for market purposes; to regulate the placing of signs,  
109 bill boards, posters and advertisements in, on or over the streets,  
110 alleys, sidewalks and public ground of said city; to preserve and  
111 protect the peace, order and safety and health of the city, and its  
112 inhabitants, including the right to regulate the sale and use of  
113 cocaine, morphine, opium, and poisonous drugs; to appoint and  
114 fix the places of holding city elections; to erect, own, lease, au-  
115 thorize or prohibit the erection of gas works, telephone plants  
116 electric light works and water works, or ferry boats, in or near the  
117 city, and to operate the same, and sell the products and services  
118 thereof to the inhabitants and industries of the city, and the in-  
119 habitants and industries of the territory outside of the city, under  
120 such rules and regulations, and for such compensation as the board  
121 of commissioners may from time to time prescribe, and to do any  
122 and all things necessary and incidental to the conduct of such  
123 business, including the right in any franchise hereafter granted to  
124 fix and change the charges and prices for which the service or  
125 article of the person or company operating any such plant or  
126 works, or any other public utilities or public service corporation  
127 under such future franchise, may be held by their patrons or con-  
128 sumers; to build, hold, purchase, own and operate toll bridges; to  
128-a provide for the purity of water, milk, meats and provisions of-  
129 fered for sale in said city, and to that end provide for a system of  
130 inspecting the same and making and enforcing rules for the regu-  
131 lation of their sale, and to prohibit the sale of any unwholesome or  
132 tainted milk, meats, fish, fruit, vegetables, or the sale of milk con-  
133 taining water or other things not constituting a part of pure milk;

134 to provide for inspecting dairies and slaughter houses, whether in  
135 or outside of the city; where the milk and meat therefrom are of-  
136 fered for sale within said city; to prescribe and enforce ordinances  
137 and rules for the purposes of protecting the health, property, lives,  
138 decency, morality and good order of the city and its inhabitants,  
139 and to protect places of divine worship in and about the premises  
140 where held, and to punish violation of such ordinances even if the  
141 offense under and against the same shall constitute offenses under  
142 the law of the state of West Virginia or the common law; to pro-  
143 vide for the employment and safe keeping of persons who may be  
144 committed in default of any payment of fines, penalties or costs  
145 under this act, who are otherwise unable or fail to discharge the  
146 same, by putting them to work for the benefit of the city upon the  
147 streets or other places provided by said city, and to use such means  
148 to prevent their escape while at work as the board of commis-  
149 sioners may deem expedient; and the board of commissioners may  
150 fix a reasonable rate per day as wages to be allowed such persons  
151 until the fine and costs against them are thereby discharged; to  
152 compel the attendance at public meetings of the members of the  
153 board of commissioners; to have and exercise such additional  
154 rights, privileges and powers as are granted to municipalities by  
155 chapter forty-seven of the code of West Virginia of the edition of  
156 one thousand nine hundred and six. For all such purposes, except  
157 that of taxation, the board of commissioners shall have jurisdic-  
158 tion, when necessary, for one mile beyond the corporate limits of  
159 said city, excepting any other municipal corporation or part of any  
160 other state within said one mile limit; *provided, however, that*  
161 *nothing herein contained shall be construed as limiting the city*  
162 *from going beyond its territorial limits to lease, purchase or erect,*  
163 *operate and maintain a water plant, or system, or any part thereof,*  
164 *or from furnishing and selling water to consumers outside the*  
165-166 city.

167 Said city of Huntington, as constituted by this act, shall re-  
168 tain, keep and succeed to all rights, privileges, property, interest,  
169 claims and demands heretofore acquired by, vested in or trans-  
170 ferred to the said city of Huntington, and said city of Central  
171 City, and the town of Guyandotte as heretofore constituted.

172 And the board of commissioners shall have the right to estab-  
173 lish, construct and maintain landings, ferries, wharves and docks  
174 on any ground which does or shall belong to said city, or which it  
175 shall acquire, and to sell, lease, repair, alter, or remove any such

176 landings, ferries, wharves, buildings, or docks which have been, or  
177 shall be so constructed, and to levy and collect reasonable duty on  
178 vessels, and other crafts coming to, or using said landings, ferries,  
179 wharves, docks and buildings, and to preserve and protect the  
180 peace and good order at the same, and regulate the manner in  
181 which they shall be used; and to have the sole right, under state  
182 laws and in the same manner as now control county courts, to es-  
183 tablish, construct, maintain, regulate and control all such wharves,  
184 docks, ferries and landings within the corporate limits.

185 To the end that the city and its inhabitants and industries  
186 may be furnished with an adequate supply of water for all needful  
187 purposes, the said city is hereby authorized to acquire and hold by  
188 gift, purchase, condemnation, or otherwise, such real estate or  
189 interest therein or personal property either within or without the  
190 city limits, as may from time to time be necessary or convenient,  
191 for use in connection with such plants, works, structures, pipe  
192 lines or other property, in and about leasing, constructing, operat-  
193 ing and maintaining a water works and system; which water  
194 works and system may also be used to supply water to the in-  
195 habitants and industries of such territory outside the city, as the  
196 board of commissioners may from time to time elect, for adequate  
197 compensation.

198 The water rates shall be fixed by the board of commissioners  
199 on the principle only of producing revenue, and discrimination in  
200 rates is prohibited in said city; and the city is hereby given the  
201 same power and authority to collect water rents by distress, levy  
202 and sale as are conferred upon it from the collection of taxes.

203 To carry into effect these enumerated powers, and all other  
204 powers conferred upon said city expressly or by implication in this  
205 and other acts of the legislature, the board of commissioners of  
206 said city shall have the power in the same manner herein pre-  
207 scribed, to adopt and enforce all needful orders, rules and ordi-  
208 nances not contrary to the laws and constitution of this state; and  
209 to prescribe, impose and enforce reasonable fines and penalties in-  
210 cluding imprisonment; and, with the consent of the county court  
211 of Cabell county entered on record, shall have the right to use the  
212 jail of said county for any purpose necessary to the administra-  
213 tion of its affairs.

Sec. 7. The city of Huntington shall have an additional board  
2 to be known and styled "Citizens Board of the City of Hunting-  
3 ton," and shall be comprised of three persons from each ward of the

4 city, who shall be voted for and elected by the voters of each ward  
5 respectively in the manner hereinafter prescribed. The members  
6 of said board shall be allowed the sum of five dollars each for his  
7 attendance at each meeting of said board.

Sec. 8. The citizens board shall, at its first meeting after a  
2 majority of the newly elected members thereof shall have qualified,  
3 elect one of its members president of the body, whose term of  
4 office shall be for three years, and at the same time shall elect a  
5 vice president, who shall have the same term of office and who, in  
6 the absence of the president, shall set as such.

Sec. 9. The city clerk shall be ex-officio clerk of the citizens  
2 board, and shall perform such duties pertaining thereto as the  
3 board may require of him.

Sec. 10. Whenever a majority of the newly elected members  
2 of the citizens board shall have qualified, they shall enter upon the  
3 duties of their offices, as a body, and supercede all the former  
4 members of said board.

Sec. 11. If any person elected to the citizens board fail to  
2 qualify as herein provided within sixty days after his said election,  
3 or shall after having qualified, resign from the board, or move from  
4 the city, his office shall be vacated, and the citizens board shall, by a  
5 majority vote of the members voting thereon, fill such vacancy for  
6 the unexpired term with some person from the same ward and of  
7 the same political party as the person whose vacancy of office is  
8 being filled.

Sec. 12. The citizens board shall, likewise by a majority vote  
2 of the members voting thereon, fill any vacancy in the office of  
3 president of its body by electing another member of the board to  
4 the office of president for the unexpired term.

Sec. 13. No franchise, or extension of franchise, shall be  
2 valid unless it shall have been ratified and approved by a majority  
3 of all the members elected to the citizens board, and the vote of  
4 said board shall be taken by roll call of the members and entered  
5 of record in the minutes of the meeting of said board.

Sec. 14. The citizens board shall have the right to hear, con-  
2 sider and act on charges against any member of the board of com-  
3 missioners, and, after having heard proof of such charges, may re-  
4 move such commissioner and declare his office vacant by two-thirds  
5 vote of all the members elected on said board, and the vote thereon  
6 shall be by roll call of the members and entered of record in the  
7 minutes of the meeting. But before such commissioner shall be



8 put on trial on said charges, he shall have at least ten days' written  
9 notice of the nature of said charges, and the time and place of a  
10 hearing of said charges, shall remove said commissioner from office,  
11 thereby declaring a vacancy in his said office of commissioner, it  
12 shall, through its president or otherwise, cause its action there-  
13 about to be at once certified to the board of commissioners.

Sec. 15. No commissioner shall be removed from his office  
2 except for one of the causes mentioned in section six of article four  
3 of the constitution of West Virginia.

Sec. 16. The citizens board shall make proper rules for its  
2 government not contrary or inconsistent with any of the provisions  
3 of this act or the authority vested in the board of commissioners;  
4 and it shall cause a record of its meetings and proceedings to be  
5 kept and recorded by its clerk in a well bound book, which shall re-  
6-7 main in the custody and at the office of the city clerk, open to  
8 public inspection. The minutes of the meeting and proceedings of  
9 said board, after recordation and when signed by its president,  
10 shall be admitted as evidence in any court of record in this state.

### ARTICLE III.

#### *Department of City Government.*

Sec. 17. The government of the city of Huntington shall be  
2 divided into five (5) departments, to-wit:

- 3 Department of fire, police and law.
- 4 Department of finance and taxation.
- 5 Department of streets and sewers.
- 6 Department of health and charity.
- 7 Department of public utilities, wharf, public buildings and  
8 grounds.

Sec. 18. The mayor shall be at the head of the department of  
2 fire, police and law, and shall, at the first regular meeting of the  
3 board of commissioners following their election and qualification,  
4 designate himself as such, and each of the other commissioners at  
5 the head of one of the said departments of government, and the said  
6 commissioner thus assigned shall be styled commissioner of that  
7 department, and the commissioner of finance and taxation shall be  
8 the treasurer of the city of Huntington, and as such shall perform  
9 all the duties pertaining to said office, and shall execute the bond  
10 as provided for in section thirty-nine of this act, and shall be al-  
11 lowed an assistant treasurer to be selected by him and confirmed by  
12 the board of commissioners.

13 And the commissioners assigned to the department of streets  
14 and sewers shall also discharge all the duties of street commissioner  
15 and all other duties pertaining to said department, and shall be  
16 allowed an assistant commissioner of streets, to be appointed by  
17 him and confirmed by the board of commissioners.

18 And the commissioner at the head of the department of health  
19 and charity shall perform the duties pertaining to said depart-  
20 ment and may be allowed such assistants to be selected by him and  
21 confirmed by the board of commissioners as may be deemed neces-  
22 sary, and said commissioner shall be and act as the police judge of  
23 said city and shall perform and discharge all the duties pertaining  
24 to the office of police judge.

Sec. 19. The commissioner of each department shall keep a  
2 public office at which he may be found or communicated with dur-  
3 ing stated hours to be fixed by him for the convenience of the pub-  
4 lic, unless his official duties call him elsewhere.

Sec. 20. If two or more persons for the office of commissioner,  
2 or member of the citizens board, or for the office of mayor, receive  
3 an equal number of votes at any election for the said office, they  
4 shall decide by casting lots as to which of them shall be elected.

Sec. 21. The mayor shall have and exercise all the rights,  
2 powers and duties of mayor conferred by the constitution and laws  
3 of this state, and those conferred by the terms of this act. He shall  
4 be presiding officer of the board of commissioners, and a mem-  
5 ber thereof, and as such shall have the right to vote on all ap-  
6 pointments made by the board of commissioners and on all ques-  
7 tions arising before the board. He shall be chief executive officer of  
8 the city and shall see that the laws and ordinances of the city and  
9 resolutions and orders of the board of commissioners are enforced,  
10 and that peace and good order of the city are preserved, and that  
11 the persons and property therein are protected. He shall per-  
12 form such other duties of the office of mayor or commissioner as  
13 the board of commissioners may from time to time prescribe, and  
14 shall also as head of the department of police, fire and law, appoint  
15 the chief of police and the chief of fire department, and by the  
16 advice and consent of the board of commissioners shall appoint all  
17 members of the police force, but such members of said police force  
18 shall be chosen from the lists provided by the civil service board  
19 under the provisions of this act.

## ARTICLE IV.

*Additional Officers.*

Sec. 22. In addition to the municipal authorities mentioned  
2 in section four of this act, said city shall have a city clerk, treas-  
3 urer, auditor, police judge, city attorney, chief of police, chief of  
4 fire department, city engineer, city building inspector and health  
5 officer, and such other officers and agents as the board of commis-  
6 sioners from time to time may create and employ, but that no new  
7 office shall be made or created by the board of commissioners with-  
8 out the approval of the citizens board. The election of all ap-  
9 pointive officers named or provided for in this section shall be  
10 vested in the board of commissioners, except as otherwise provided  
11 by the provisions of this act.

## ARTICLE V.

*Qualification of Voters.*

Sec. 23. Every person qualified by law to vote for members  
2 of the legislature of the state, and who shall have been a resident of  
3 the city for sixty days, preceding the day of election, and a bona  
4 fide resident of the election precinct in which he offers to vote,  
5 shall be entitled to vote at all elections held in said city by or  
6 under the corporate authorities thereof.

Sec. 24. Candidates to be voted for at any municipal or gen-  
2 eral election for mayor or members of the board of commissioners,  
3 or members of the citizens board, shall be nominated by a primary  
4 election held upon the fourth Monday in April preceding said  
5 election, in the manner hereinafter prescribed; *provided, however,*  
6 that where said candidates are to be nominated other than by  
7 political party, in that case the nomination may be made by peti-  
8 tion in accordance with the statute law of the state of West Vir-  
9 ginia; and provided further that no political party shall nominate  
10 more than one candidate for the office of board of commissioners  
11 from the same ward, and if two or more candidates of the same  
12 political party, and of the same ward, shall receive a greater num-  
13 ber of votes than candidates of other wards for the same office,  
14 then the candidate receiving the highest number of votes of said  
15 ward shall be nominated, and the vote received by the other can-  
16 didates of the same ward shall be disregarded. And should a va-  
17 cancy occur upon any ticket for any office after the nominations

18 have been made, the city clerk shall forthwith notify the chair-  
19 man of the city committee of the political party to which such  
20 candidate belonged and the said committee shall fill the vacancy  
21 and certify the same to the city clerk. The nominations for officers  
22 shall be made by a primary election held under the direction of  
23 the city, which shall be known as a general primary election, and  
24 all the candidates for office, of whatsoever political party, shall be  
25 nominated therein. The expense of such primary shall be paid by  
26 the city out of the contingent fund, and such precincts shall be  
27 maintained and kept open on the election day as will give the peo-  
28 ple of the city a fair opportunity to vote. The officers for both  
29 primary elections and general election held under this act after  
30 the election of May twenty-sixth, one thousand nine hundred and  
31 nineteen, shall be selected from the two political parties which cast  
32 the highest number of votes in the next preceding election, and the  
33 majority of such election officers shall be so selected from such  
34 political party as elected the mayor of said city at such preceding  
35 election. *Provided, however,* that any political party which may  
36 have a candidate upon the ballot shall be entitled to have in each  
37 precinct a challenger, who shall have the right to remain in said  
38 precinct until the ballots are counted and the returns certified.  
39 The election officers for all elections held under this act shall con-  
40 sist of the same number of commissioners and clerks as are re-  
41 quired by the state election laws, but no city official or employee  
42 shall be appointed or serve as an election officer. The returns from  
43 all primary elections shall be certified by the election officers hold-  
44 ing same to the city clerk, and after the election of May twenty-  
45 sixth, one thousand nine hundred and nineteen, same shall be can-  
46 vassed by the citizens board, as a canvassing board, and the result  
47 ascertained and declared within three days after such primary  
48 election, and said board shall certify forthwith after such canvass  
49 the names of the successful candidates of all the political parties  
50 to the city clerk, whose duty it shall be, in conjunction with two  
51 ballot commissioners of opposite political parties, appointed by  
52 the citizens board, to make up and have printed, in accordance  
53 with the statute of the state, the ballot for the general city elec-  
54 tion, and immediately upon receiving the certification of the result  
55 of said primary the clerk of the city shall forthwith publish the  
56 same in two newspapers of general circulation in said city of  
57 Huntington, said publication to be made each day for ten days at  
58 least preceding said election. All primary elections shall be

59 opened and closed, and in every particular conducted in accord-  
60 ance with the law of the state applicable to primary and general  
61 elections, except as herein provided. And person desiring to be-  
62 come a candidate in any primary for the office of mayor, commis-  
63 sioner, or member of the citizens board, shall file with the clerk of  
64 the said city a written request that his name be placed upon the  
65 primary ballot for the office for which he is a candidate, which re-  
66 quest shall give the full name of the party so desiring to become a  
67 candidate, and his address and the political party to which he  
68 belongs, and the office for which he is a candidate.

69 At least twenty-five (25) days prior to the time set for any  
70 primary election held after the twenty-sixth day of May, one thou-  
71 sand nine hundred and nineteen, the said citizens board, known as  
72 the election board, shall appoint two ballot commissioners of op-  
73 posite political parties who, with the city clerk, who shall be chair-  
74 man of the said primary election ballot commission, shall twenty  
75 days before said primary meet and make up the said ticket to be  
76 voted in the said primary, and who shall be governed in all par-  
77 ticulars with respect to the said primary election as are ballot  
78 commissioners for general elections in this state, and when so made  
79 by the said primary ballot commission the ticket shall be pub-  
80 lished at least two weeks before said primary election in two news-  
81 papers with general circulation of opposite politics in said city of  
82 Huntington; and the said city clerk, as chairman of said ballot  
83 commission, shall have the necessary ballots prepared and neces-  
84 sary books in which returns from various precincts may be kept,  
85 made, and shall turn over same to the commissioner of said pri-  
86 mary election in the same manner as required by the county clerk  
87 in general elections; and the number of ballots delivered at each  
88 polling place shall be equal to twice the number of votes cast in  
89 the precinct at the last general election in said city. Persons who  
90 are qualified to vote at the general city election shall be qualified to  
91 vote at the said primary election, and no person shall be permitted  
92 or allowed to vote in any primary or general election held under  
93 this charter unless he has been registered as hereinafter provided.

94 For the purpose of the primary election to be held under this  
95 act on the twenty-eighth day of April, one thousand nine hundred  
96 and nineteen, and the general election to be held hereunder on the  
97 twenty-six day of May, one thousand nine hundred and nineteen,  
98 all persons shall be taken as duly qualified voters in the registra-  
99 tion lists of voters of the various voting precincts of the said city

100 of Huntington used as such registration lists in the general elec-  
101 tion held under the laws of the state of West Virginia on Tuesday,  
102 November fifth, one thousand nine hundred and eighteen, and  
103 now of record in the office of the clerk of the county court of said  
104 Cabell county.

105 It shall be the duty of the clerk of the said city of Hunting-  
106 ton to procure from the clerk of the county court of said Cabell  
107 county, two (2) duly certified copies of such registration lists of  
108 voters as used in the general election held November fifth, one  
109 thousand nine hundred and eighteen, for each voting precinct in  
110 said city of Huntington, and he shall so procure same and furnish  
111 one copy thereof to each of the respective registrars for such pre-  
112 cincts to be used by them in making up the registration lists of  
113 voters for the said city elections as hereinafter prescribed, the  
114 costs of procuring which shall be paid by the said city.

115 The registrars appointed as provided for in this act shall, im-  
116 mediately upon their appointment as such, appear before the clerk  
117 of the said city of Huntington and qualify and take the oath in  
118 the manner and form prescribed by the election laws of the state  
119 of West Virginia before acting as such, and the said registrars  
120 shall sit at the respective voting places in the two precincts for  
121 which they were so appointed registrars on the sixteenth and  
122 seventeenth days of April, one thousand nine hundred and nine-  
123 teen, for the purpose of registering all qualified voters of such  
124 precincts whose names do not appear in the registration lists used  
125 in the general election of November fifth, one thousand nine hun-  
126 dred and eighteen, and to add the names of such qualified voters  
127 to such lists and to amend and correct the said registration lists  
128 for use in the primary election to be held under this act on the  
129 twenty-eighth day of April, one thousand nine hundred and nine-  
130 teen, and the said registrars shall in like manner sit at such re-  
131 spective voting place in said precincts for which they were so ap-  
132 pointed on the fifteenth and sixteenth days of May, one thousand  
133 nine hundred and nineteen, for the purpose of in like manner pre-  
134 paring, adding thereto, amending and correcting the registration  
135 lists of qualified voters for use in the election to be held under  
136 this act on the twenty-sixth day of May, one thousand nine hun-  
137 dred and nineteen, and which said registration and addition of  
138 the names of qualified voters and amendments and corrections of  
139 such registration lists shall be made in the manner and form pre-  
140 scribed by the general election laws of the state of West Virginia,

141 and in strict conformity therewith, but before sitting as such  
142 registrars for the purposes aforesaid the said respective registrars  
143 shall give ten days' notice of such sittings and the purpose thereof  
144 by publication for such period in two newspapers of opposite  
145 politics published in the said city of Huntington.

146 The said registrars shall be vested with all the powers and  
147 shall perform all the duties required of registrars in elections held  
148 in said state of West Virginia by the general election laws thereof.

149 The said registrars shall immediately after such sittings, as  
150 hereinabove prescribed, return such registration lists to the clerk  
151 of said city of Huntington, who shall preserve the same and shall  
152 furnish such respective lists to the officers holding said primary  
153 election of April twenty-eighth, one thousand nine hundred and  
154 nineteen and such general election of May twenty-sixth, one  
155 thousand nine hundred and nineteen, as the legal registration lists  
156 for such elections, and all whose names appear upon such reg-  
157 istration lists shall be taken to be legally qualified voters at such  
158 elections and entitled to vote thereat, and no one whose name is  
159 not on such lists shall be permitted to vote in such elections.

160 The said registrars shall receive for their services as such the  
161 sum of five dollars per day each and ten cents each for the name of  
162 every additional voter registered, to be paid by the city of Hunt-  
163 ington.

164 For all elections, primary and general, held under this act,  
165 after the election of May twenty-sixth, one thousand nine hun-  
166 dred and nineteen, the said primary and general elections shall be  
167 held under the general election laws of the state of West Virginia,  
167-a as far as applicable hereto, and the registration of voters for  
168 such elections shall be had and proceeded with as prescribed  
169 by the general election laws of the state of West Virginia for the  
169-a registration of voters for such state elections.

170 The citizens board shall appoint the registrars to prepare the  
171 registration lists of legal voters prescribed by this act at least  
172 thirty (30) days prior to any election, primary or general, to be  
173 held hereunder.

174 The officers of all primary elections shall take the same oath  
175 that is prescribed to be taken by the state law of the state of  
176 West Virginia by officers of an election in a general election, and  
177 in the same manner, and any commissioner or election clerk ap-  
178 pointed as aforesaid by the said election board, who shall wilfully  
179 or negligently fail to perform the duties required of him under

180 this act, shall be guilty of a misdemeanor and on conviction there-  
181 of shall be fined not less than twenty-five nor more than one hun-  
182 dred dollars.

183       The names of the said candidates in all primary elections  
184 shall be arranged alphabetically, or in the manner provided by the  
185 state law, upon the said ballot under a heading which shall desig-  
186 nate the politics of the said candidates, and each ticket shall be  
187 upon a separate ballot.

188       The method of voting in all elections, primary and general,  
189 shall be the same as is prescribed by statute laws of the state of  
190 West Virginia for such primary and general elections.

191       The election commissioners, when the polls have been closed,  
192 shall certify the returns as are the returns in a general election  
193 certified, and deliver the ballot boxes containing the election  
194 records and ballots to the clerk of the said city upon the evening  
195 of the day the said primary shall be held, and said clerk shall be  
196 custodian thereof until such returns have been canvassed by the  
197 citizens board, known as the election board.

198       All the provisions of the state law governing general elections  
199 with regard to illegal voting or any corrupt practice in connection  
200 with any primary election held under this act are made applicable  
201 thereto, and the said commissioners of the said primaries are  
202 given all the powers given to the commissioners of election by the  
203 general laws of the state of West Virginia, and no policeman or  
204 member of the fire department shall take part therein, or in any  
205 general elections, except to vote, and if such policeman or member  
206 of the fire department shall take part in any election held under  
207 this act, either for or against any candidate, he shall forfeit his  
208 office or position, and upon complaint to the mayor of said city of  
209 any citizen that any such policeman or member of fire department  
210 has taken any part in any such election, except to vote, he shall  
211 suspend such policeman or member of fire department, without  
212 pay, until a hearing shall be had on such complaint. All such  
213 complaints shall be in writing setting forth the particulars in  
214 which such person or persons has violated this provision, signed  
215 and sworn to by the party making same and filed with the mayor,  
216 and it shall be the duty of the mayor upon the filing of said com-  
217 plaint with him to suspend, without pay, the person or persons  
218 named in the complaint, and thereupon the board of commission-  
219 ers shall hear and determine the charge made. The suspended em-  
220 ployee or appointee shall have at least ten days' notice of the time



221 and place set for hearing of said complaint, and a copy of said  
222 complaint shall be served upon the person accused at the time  
223 notice is served, and if upon the hearing of such complaint said po-  
224 liceman or member of the fire department is found guilty thereof,  
225 he shall be immediately discharged by the said board and he shall  
226 be ineligible to reappointment to said place, office or employment.

227 For the purpose of holding the first general primary elec-  
228 tion and general election under this act a special election board  
229 is hereby created, consisting of six persons, three republicans and  
230 three democrats, viz: W. F. Kahler, Erskine McClain and T. C.  
231 Preston, republicans, and William Arnett, James Murphy and  
232 F. F. McCullough, democrats, and it shall be the duty of said  
233 special election board, or a majority thereof, to meet at least  
234 twenty-five days prior to the time set for the holding of said  
235 primary election of April twenty-eighth, one thousand nine  
236 hundred and nineteen, and appoint two registrars for each voting  
237 precinct in the said city of Huntington, who shall be of opposite  
237-a politics and appoint two ballot commissioners of opposite  
238 political parties who with the city clerk, shall constitute a ballot  
239 commission as required by this act and the laws of the state for  
240 the purpose of preparing ballots for a general election in this  
241 state. And it shall be the duty of said special election board to  
242 appoint the ballot commissioners and registrars and the election  
243 officers to hold the first general primary and the first general  
244 election under this act, and they shall be governed in making  
245 said appointments by the provisions of this act and the general  
246 laws of the state, and the election officers so appointed shall be  
247 vested with all powers and perform all duties devolving upon  
248 like election officers appointed under the general election laws  
249 of the state of West Virginia for its elections, and the dominant  
250 party shall have the majority of the election officers at each  
251 precinct for the election to be held by the special election board  
252 hereby created, and the dominant party shall be held to be the  
253 party which elected the mayor at the last city election. And  
254 the said special election board so created for the purpose of hold-  
255 ing and conducting the said primary election of April twenty-  
256 eighth, one thousand nine hundred and nineteen, and the gen-  
257 eral election of May twenty-sixth, one thousand nine hundred  
258 and nineteen, shall, in respect to said two elections, be vested  
259 with all the powers vested in and devolving upon the county  
260 court of said Cabell county with respect to elections held, both

261 primary and general, under the laws of the state of West Vir-  
262 ginia, insofar as such duties and powers are not in conflict with  
263 other provisions of this act.

264 In all elections, both primary and general, held for the city  
265 of Huntington under the provisions of this act, after the elec-  
266 tion of May twenty-sixth, one thousand nine hundred and nine-  
267 teen, the citizens board of the said city of Huntington shall be  
268 vested with all the powers and perform all the duties vested in  
269 and devolving upon the county court of Cabell county under  
270 the general election laws of the state of West Virginia with re-  
271 spect to state elections, and in appointing the election officers for  
272 any city election the dominant party shall be entitled to a  
273 majority representation on the election boards at each precinct  
274 in said city, and the dominant party shall be held to be  
275 the party that elected its mayor of the city at the next preced-  
276 ing election, and the clerk of the said city of Huntington in all  
277 elections of said city held under the provisions of this act shall  
278 be vested with all the powers and perform all the duties vested in  
279 and devolving upon the clerk of the county court of the said  
280 Cabell county under the said election laws of said state of West  
281 Virginia.

## ARTICLE VI.

### *Election of Officers.*

Sec. 25. On the fourth Monday in May, one thousand nine  
2 hundred and nineteen, there shall be elected by the qualified voters  
3 of the city, a mayor and two commissioners, who shall hold their  
4 offices from the time of their qualification on and from the second  
5 Monday in June, then succeeding, for the term of three years  
6 and until their successors are elected and a majority thereof shall  
7 qualify, and the two commissioners, Mat Miser and L. D. New-  
8 man, who are now holding the office of commissioner under the  
9 present laws governing said city by election by the people shall re-  
10 main in office until the expiration of the term for which they  
11 were elected and until their successors shall be chosen in the man-  
12 ner herein provided. When the terms of office of the said two  
13 present commissioners shall expire or if the term of either or both  
14 of them shall be otherwise sooner terminated, their successors  
15 shall be chosen in the same manner as provided in the act for  
16 the filling of vacancies in the office of commissioner, and on the

17 fourth Monday in May, one thousand nine hundred and twenty-  
18 two, and on the same day in every third year thereafter, there  
19 shall be elected by the qualified voters of the city, a mayor and  
20 four commissioners who shall hold their offices from the time of  
21 their qualification on and from the second Monday in June, then  
22 next succeeding, for the term of three years and until their suc-  
23 cessors are elected and a majority of them shall qualify. *Pro-*  
24 *vided, however,* that if this act is not in effect a sufficient time to  
25 make the registration of voters and hold the primary election for  
26 the first election, herein provided, then the said primary election  
27 for the first election hereunder shall be held on the second Mon-  
28 day in August, one thousand nine hundred and nineteen, and the  
29 general election hereunder shall be held on the second Monday in  
30 September, one thousand nine hundred and nineteen, and all the  
31 provisions of this act relating to the registration of voters, ap-  
32 pointment of ballot commissioners, appointment of election officers,  
33 the holding of said election, canvassing of returns of said election,  
34 for said first election shall apply to such primary and general  
35 election. And all persons elected to office at such first election  
36 shall hold their office until the next general election as in this  
37 act provided, and until their successors are elected and qualified.  
38 In the event that said first election shall be held on the second  
39 Monday in September, one thousand nine hundred and nineteen,  
40 the commissioners of Huntington as now constituted and the  
41 citizens' board shall hold their offices, respectively, until the elec-  
42 tion and the qualification of a majority of the commissioners  
43 and a majority of the citizens' board under said first election.

Sec. 26. At the election at which the mayor and commis-  
2 sioners shall be elected there shall also be elected by the qualified  
3 voters of each ward of the city of Huntington three members of  
4 the citizens' board from each ward, who shall at the time be resi-  
5 dents of the ward from which they are elected, and who shall hold  
6 their offices from the time of their qualification on and from the  
7 second Monday of the next succeeding June for the term of three  
8 years and until their successors are elected and a majority thereof  
9 shall have qualified, and the term of office of the present members  
10 of the citizens' board shall cease and determine on the second  
11 Monday in June, one thousand nine hundred and nineteen, and  
12 they shall be superseded by the persons elected to said board at  
13 said election. A majority of said citizens' board shall constitute

14 a quorum for the transaction of business. The city clerk shall  
15 be *ex-officio* clerk of the citizens' board and shall perform all  
16 duties pertaining thereto required of him and he shall keep in  
17 a well-bound book, to be part of the city records, a full and com-  
18 plete record of all acts and proceedings of said citizens' board  
19 and of all orders made by it.

Sec. 26-a. No person shall be eligible to the office of mayor,  
2 commissioner or members of the citizens' board except they be a  
3 citizen entitled to vote at the election at which commissioners are  
4 elected.

Sec. 27. All elections, of whatsoever kind, held under this  
2 act shall be conducted, returned and the results thereof ascer-  
3 tained and declared in the manner prescribed by the laws of the  
4 state insofar as they are not in conflict or inconsistent with the  
5 provisions of this act, and all penalties and fines of any sort  
6 whatsoever prescribed by the laws of the state relating to elections  
7 shall be applicable to all elections held hereunder. Election  
8 officers for the general elections in the city of Huntington shall be  
9 selected as follows: The citizens' board, as hereinafter provided,  
10 shall be and be known as the election board, and the president of  
11 the citizens' board shall be the chairman thereof; said board shall  
12 have the sole power to appoint registrars, ballot commissioners  
13 and all the election officers for all elections to be held under this  
14 charter, except the primary election of April twenty-eight, one  
15 thousand nine hundred and nineteen, and the general election of  
16 May twenty-six, one thousand nine hundred and nineteen, other-  
17 wise provided for herein. Such registrars, ballot commissioners  
18 and election officers, commissioners and clerks shall be by the said  
19 board appointed in accordance with the general laws in this state,  
20 except that any political party which has candidates upon the  
21 ballot shall be entitled to have a challenger within the precinct  
22 present at the holding of the said election, and at the counting of  
23 the ballots, until the same are sealed for delivery to the clerk  
24 of the city by such election commissioners. The commissioners  
25 and other election officers may be selected upon the recommenda-  
26 tion of the committees from the various parties, but the said  
27 election board shall have the right in all respects to use their  
28 judgment with regard to the appointment of such election officers,  
29 and may refuse to appoint any person as election officer who,  
30 in the opinion of the board, should not be appointed.

31 The said election board shall canvass the returns of all pri-  
32 mary elections and general elections and ascertain and declare  
33 the results thereof in the manner provided by the election laws of  
34 the state, and shall have and exercise all the powers and duties in  
35 relation to the appointment of election officers, registrars and  
36 ballot commissioners and canvassing returns of an election imposed  
37 on the county court of a county by the state election laws.

### *Contested Election.*

Sec. 28. All contested elections shall be heard and decided  
2 by the board of commissioners for the time being, and the con-  
3 test shall be made and conducted in the same manner as provided  
4 for in such contests for county and district offices; and the board  
5 of commissioners shall conduct its proceedings in such cases as  
6 nearly as practicable in conformity with the proceedings of the  
7 county court in such cases.

### *Oaths of Officers.*

Sec. 29. All officers elective, and appointive, shall make oath  
2 before some one authorized to administer oaths, that they will  
3 support the constitution of this state, and will faithfully and im-  
4 partially discharge the duties of their respective offices, to the  
5 best of their skill and judgment; that they will not administer  
6 their respective offices with the aim to benefit any political party;  
7 and, in the case of commissioners, they shall add in their oath  
8 that they will not during their term of office become pecuniarily  
9 interested directly, in any contract with the city, or the purchase  
10 of any supplies therefor. When the officer shall have made such  
11 oath in writing and filed the same with the city clerk, and shall  
12 have given bond required of and accepted from him, he shall be  
13 considered as having qualified for the office to which he was  
14 elected or appointed; *provided*, that if any person elected to the  
15 office of commissioner shall not qualify for said office as herein  
16 prescribed within ten days after he shall have been officially de-  
17 clared elected thereto, said office shall *ipso facto* become vacant,  
18 and said vacancy shall be filled in the manner provided for in  
19 this act.

Sec. 30. Each member of the board of commissioners, and  
2 the city clerk, treasurer, auditor, city attorney, city physician,

3 superintendent of water works, and collector of water rents, chief  
4 of police, chief of fire department, shall, before entering upon  
5 the discharge of their duties, give an official bond, conditioned  
6 for the faithful performance of their respective duties as prescribed  
7 in this act or any ordinance now or hereafter passed, in amounts  
8 as follows: Each commissioner, five thousand dollars; the treas-  
9 urer, sixty thousand dollars; superintendent of water works, five  
10 thousand dollars; the collector of water rents, twenty thousand  
11 dollars; the auditor, two thousand dollars; the city clerk, chief of  
12 police and the chief of fire department, each one thousand dollars.

13 The board of commissioners may require additional bond  
14 from any of said appointive officers, and may likewise require a  
15 bond in whatever sum they may fix, of any other appointive  
16 officer. All bonds of appointive officers shall before their accept-  
17 ance, be approved by the board of commissioners; and the bond  
18 of the commissioners shall be approved by the retiring board of  
19 commissioners (common council in the first instance.) All other  
20 bonds of whatsoever kind shall not be accepted until first approved  
21 by the board of commissioners. The minutes of the meeting of  
22 the board shall show all matters touching the consideration or  
23 approval of all bonds, and when said bonds are approved and  
24 accepted they shall be recorded by the city clerk in a well-bound  
25 book kept by him at his office for that purpose, which book shall be  
26 open to public inspection; and the recordation of such bonds are  
27 as aforesaid, shall be *prima facie* proof of their correctness, and  
28 they, as so recorded, shall be admitted as evidence in all the courts  
29 of this state. The city clerk shall be the custodian of all bonds,  
30 except those given by him, and as to them the city treasurer shall  
31 be custodian.

32 All bonds, obligations or other writing taken in pursuance  
33 of any provisions of this act shall be made payable to "The City  
34 of Huntington," and the respective persons, and their heirs, ex-  
35 ecutors, administrators and assigns bound thereby, shall be sub-  
36 jected to the same proceedings on said bonds, obligations and other  
37 writings, or enforcing the conditions of the terms hereof, by  
38 motion or otherwise, before any court of record held in and for  
39 the county of Cabell, that collectors of county levies and other  
40 sureties are or shall be subject to on their bonds for enforcing the  
41 payment of the county levies.

Sec. 31. The term of office of the mayor, the members of the

2 board of commissioners, and the members of the citizens' board,  
3 shall be for three years commencing on the second Monday in  
4 June next after the general election and ending on the Sunday  
5 next preceding the second Monday of June in the third year  
6 thereafter, or until their successors are elected and qualified.

Sec. 32. All appointive officers (except those under civil  
2 service) shall hold for the term of three years (unless sooner re-  
3 moved by and at the pleasure of the board of commissioners),  
4 and until their successors are appointed and qualified.

Sec. 33. The salary of the mayor shall be \$3,600 per annum,  
2 and his salary may be increased by the citizens' board, if said  
3 board should deem it advisable, to a sum not exceeding \$4,200,  
4 and the salary of the members of the board of commissioners shall  
5 be \$3,000 per annum, which may be increased by the citizens'  
6 board to any sum not exceeding \$3,600 each. All salaries to  
7 officers and city employees shall be paid by city vouchers payable  
8 to the order of such officer or employee. *Provided, however,* that  
9 the board of commissioners shall make all appointments of ap-  
10 pointive officers required of them to be made under this act on or  
11 before the first day of July next following their election and  
12 qualification, and if the said board shall fail to make such appoint-  
13 ment in the time aforesaid their salaries shall cease until such  
14 appointments are made; and the mayor, city clerk and treasurer  
15 shall take official notice of such failure to fill said appointive  
16 offices and shall not issue any order for nor otherwise pay to the  
17 commissioners their salary for the period of their failure to  
18 make said appointment.

Sec. 34. The board of commissioners shall fix the salary of  
2 all assistants to the heads of departments, and all appointive  
3 officers, except that of the city auditor; the city auditor shall be  
4 appointed by the citizens' board and he shall hold office at the  
5 pleasure of said board, and said board shall also fix his salary  
6 which shall be paid by the city.

Sec. 35. Laborers by the day and those doing special work  
2 may be paid by the board of commissioners without fixing the  
3 price therefor by ordinance.

#### *Duties of Appointive Officers.*

Sec. 36. The duties in addition to those prescribed herein,  
2 of all appointive officers named or authorized in this act shall be  
3 prescribed by the board of commissioners.

## ARTICLE VII.

*Meetings of Board of Commissioners.*

Sec. 37. The board of commissioners shall meet at some  
2 place provided for that purpose at least once each week, on a stated  
3 day and at an hour fixed by ordinance or rules governing the board.

Sec. 38. Special meetings of the board may be called by  
2 the mayor or any two members of the board by personal notice  
3 given to the other members thereof, and like notice to the public  
4 through and by at least one publication in two daily newspapers  
5 of the city of opposite politics, stating the time and object of the  
6 meeting; and no business, except that stated in said notice, shall  
7 be considered or acted upon at said meeting. All meetings of the  
8 board shall be open to the public.

*How Vote Taken.*

Sec. 39. The vote upon any question or motion before the  
2 board of commissioners may be *viva voce* when unanimous; but  
3 if the question or motion does not receive the unanimous vote  
4 of the members present, then the vote shall be taken by roll call  
5 of the members and made a part of the minutes of the meeting;  
6 and when the vote is unanimous the minutes shall so state.

*Minutes of the Meetings.*

Sec. 40. The city clerk shall be *ex-officio* clerk of the board  
2 of commissioners. Said board shall cause detailed minutes of  
3 its meetings and proceedings to be kept by the city in a well-bound  
4 book for that purpose, which shall remain in the custody of the  
5 city clerk at his office and open to public inspection. The minutes  
6 of every regular or special meeting shall be read publicly at the  
7 next regular meeting of the board, and, after being corrected,  
8 shall be signed by the mayor and city clerk, and, if thus recorded  
9 and signed, they shall be admitted as evidence in any court of  
10 record in this state.

*Meetings of the Citizens' Board.*

Sec. 41. The citizens' board shall meet on the first Monday  
2 of each month at an hour and at the place to be fixed by it by the  
3 rules governing its body.



Sec. 42. Special meetings of the citizens' board may be called by its president, or any ten members thereof, or by the board of commissioners, or by the mayor, by notice published in two daily newspapers of the city of opposite politics, for three successive days, stating the time and object of the meeting. The holding of a special meeting of the citizens' board shall be *prima facie* evidence that the said notice required therefor was given as prescribed in this section.

*Attendance of Witnesses, Punishing Contempts, etc.*

Sec. 43. The board of commissioners and the citizens' board in the exercise of their respective powers and the performance of their respective duties, as prescribed by this act and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties as notaries public, justices of the peace and other officers of the state authorized to administer oaths under state laws, and said board of commissioners and said citizens' board shall have such power to punish for contempt as is conferred on county courts by section thirteen of chapter thirty-one of the code. All process necessary to enforce the powers conferred by this act on the board of commissioners and citizens' board shall be signed by the mayor (or acting mayor) and the president of the citizens' board, respectively, and shall be executed by any member of the police force.

*Quorum.*

Sec. 44. A majority of the members of the board of commissioners and a majority of the members of the citizens' board shall be necessary for the transaction of business before said respective boards.

*Filling Vacancies in Office of Commissioner.*

Sec. 45. If there shall occur at any time a vacancy in the office of mayor, or in the office of commissioner, the citizens' board shall have the right and power to fill such vacancy by appointment in the manner hereinafter provided, and for that purpose said citizens' board shall immediately convene and fill such vacancies for the unexpired term, but the person or persons so ap-

7 pointed to fill such vacancies shall be of the same political party  
8 as the mayor or commissioner whose office was vacated and is  
9 being filled. *Provided, however,* that the members of the same  
10 political party on the citizens' board that the mayor or commis-  
11 sioner was a member of at the time the vacancy occurred shall  
12 have the right to select the person to be appointed to such vacancy,  
13 and the citizens' board shall appoint the person so recommended  
14 and selected. The person so appointed shall take and subscribe  
15 to the oath of office required by this charter, and execute any  
16 bond that may be required by law.

#### *Absence of Officers.*

Sec. 46. When any member of the board of commissioners or  
2 any appointive officer of the city shall from sickness or other causes  
3 be unable, for a short space of time, to attend to the duties of  
4 his office, the board of commissioners, in case of the absence of a  
5 commissioner, may designate another commissioner to attend to  
6 the duties of such absent commissioner in addition to the duties  
7 already devolving upon him in the capacity of commissioner;  
8 and, in case of the absence of any appointive officer, the board  
9 may appoint some other officer of the city or other person to per-  
10 form the duties of such officer, during his absence, either with  
11 or without the salary, in whole or in part, of such absent officer.

#### *Cannot Hold Any Other Office.*

Sec. 47. The members of the board of commissioners can-  
2 not hold any other city office, except as prescribed in this act, nor  
3 be an employee of the city in any other capacity with a compen-  
4 sation, nor hold any other office or position, with or without com-  
5 pensation, which may interfere with the faithful discharge of  
6 their duties as commissioner.

Sec. 48. No appointive officer of the city shall hold two  
2 official offices with the city at the same time, nor shall become the  
3 employee of the city in any other capacity, without first having  
4 the consent of the board of commissioners.

#### *Purchasing Supplies.*

Sec. 49. The board of commissioners shall purchase all the  
2 supplies for the departments of the city government at the lowest

3 price possible considering the quality and grade of the supplies  
4 desired. And, when practicable, the board shall advertise by  
5 reasonable notice in at least two daily newspapers of opposite  
6 politics, for bids on supplies to be furnished, and shall award  
7 contract therein (unless all bids are rejected) to the lowest bid-  
8 der taking from such bidder a written contract and bond therein,  
9 to be approved by the board, for the faithful performance of said  
10 contract. *Provided, however,* that no supplies shall be purchased  
11 until the auditor has made requisition for same, which shall also  
12 be approved by the mayor.

#### ARTICLE VIII.

Sec. 50. All persons elected or appointed to the offices  
2 named in this act shall be conservators of the peace within said  
3 city, and they, and any other officer provided for under this act,  
4 may be given authority of police officers by the board of com-  
5 missioners.

6 The police judge shall be *ex-officio* a justice of the peace,  
7 with authority to issue warrants or other process for all offenses  
8 committed within the police jurisdiction of the city of Hunt-  
9 ington of which a justice of the peace has jurisdiction under the  
10 state laws, and for all violations of any city ordinances; in order  
11 to preserve the peace and good order of the city, and protect the  
12 persons and property therein, riotous and disorderly persons in  
13 the city may be arrested and detained before issuing any warrant  
14 therefor. The police judge may without fees or other compen-  
15 sation commit persons charged with felony or misdemeanor to  
16 jail or take bond for their appearance before the grand jury of the  
17 circuit court or criminal court of Cabell county; and he shall have  
18 power to issue executions for all fines, penalties and costs imposed  
19 by him. And he may require the immediate payment thereof,  
20 and, in default of such payment, may commit the person so in  
21 default to jail until the fine and penalty and costs shall be paid  
22 or satisfied, and to be employed during imprisonment as pro-  
23 vided by this act. If any person is sentenced to imprisonment,  
24 or any person or corporation is assessed with a fine of ten dollars  
25 or more, such person or corporation shall be allowed an appeal  
26 from said decision of the police judge to the criminal court of  
27 Cabell county upon the execution of an appeal bond, with surety  
28 deemed sufficient by the police judge, in a penalty double such

29 fines and costs, conditioned that the person proposing to appeal  
30 will perform and satisfy any judgment which may be recorded  
31 against him by the appellate court on such appeal, and in no case  
32 shall a fine of less than ten dollars be given by the police judge  
33 if the defendant, his agent or attorney demand that such fine be  
34 made as much as ten dollars. If such appeal be taken the war-  
35 rant of arrest, the transcript of the judgment, the appeal bonds  
36 and other papers of the case shall be forthwith delivered by the  
37 police judge to the clerks of the criminal court, and said crim-  
38 inal court shall proceed to try the case as upon indictment or pre-  
39 sentment and render such judgment, including that of cost, as the  
40 law and evidence may demand.

## ARTICLE IX.

### *Vote on Franchise, Ordinances, Officers, Etc.*

Sec. 51. No franchise or ordinance shall be passed, and no  
2 contract shall be awarded nor any money appropriated for any  
3 one purpose in a greater sum than twenty-five dollars, and no  
4 appointment of any officer shall be made, nor any vacancy in  
5 office declared without the affirmative vote of at least four mem-  
6 bers of the board of commissioners.

Sec. 52. If any ordinance passes the board of commissioners  
2 it shall become and remain effective as therein prescribed unless  
3 vetoed by the citizens' board at its next regular meeting time, or  
4 special meeting time called to act on said ordinance.

Sec. 53. When the citizens' board shall express its vote on  
2 any ordinance passed by the board of commissioners (except a  
3 franchise), it shall, not later than the second day thereafter,  
4 cause such ordinance, with its vote thereof, and its written rea-  
5 sons therefor, addressed to the board of commissioners, to be  
6 transmitted to the city clerk, and the city clerk shall submit the  
7 same to the board of commissioners at its regular meeting or  
8 special meeting called for that purpose, which shall be noted in  
9 the minutes of said meeting, but a failure to transmit such ordi-  
10 nance within said time shall not render such veto void. If the  
11 said ordinance shall be changed and again passed by the board of  
12 commissioners, it shall be treated as a new or original ordinance  
13 and subject to the veto power of the citizens' board.

Sec. 54. If there shall be a tie vote on the passage of any

2 franchise before the board of commissioners, the mayor shall at  
3 once transmit such franchise, with a written statement of that  
4 vote on the passage of the same before the board of commission-  
5 ers was a tie, to the president of the citizens' board, who shall lay  
6 the same before said citizens' board at its next regular meeting  
7 time thereafter, or prior special meeting time called for that pur-  
8 pose. If upon consideration of said franchise by the citizens' board  
9 a majority of all the members elected to said citizens' board shall  
10 vote for the passage of said franchise as transmitted from the  
11 board of commissioners, it shall be considered passed and adopted,  
12 and shall become effective, as prescribed by the terms thereof.  
13 The citizens' board, through its president or otherwise, shall  
14 at once transmit the same, with the action of the citizens' board,  
15 addressed to the board of commissioners, to the city clerk, who  
16 shall call the same to the attention of the board of commissioners,  
17 at their next regular meeting, or special meeting called for the  
18 purpose, at which shall be noted in the minutes the action of the  
19 citizens' board on said franchise.

Sec. 55. Publication of notice to present franchise, and  
2 other preliminaries prescribed by the laws of the state relating  
3 thereto, shall be had in the manner prescribed by state laws, before  
4 the board of commissioners shall act on any such franchise; but  
5 the passage of any franchise shall be *prima facie* proof that such  
6 notice was given as prescribed by law.

7 The word "franchise," whenever used in this act, shall in-  
8 clude every special privilege in, under and over the streets, high-  
9 ways and public grounds of the city which does not belong to  
10 the citizens generally by common right.

Sec. 56. The style of any ordinance enacted by the board of  
2 commissioners shall be, "Be it ordained by the Board of Commis-  
3 sioners of the City of Huntington."

## ARTICLE X.

### *Licenses.*

Sec. 57. Concerning anything for which a state license is  
2 required to be done within the said county, the board of commis-  
3 sioners may require a city license therefor, and may impose a  
4 tax thereon for the use of the city; and the board of commissioners  
5 shall have the power to grant, refuse or revoke any such license

6 of owners or keepers of hotels, carts, wagons, drays and every  
7 other description of wheeled carriages kept or used for hire in said  
8 city, and to levy and collect tax thereon and to subject the same to  
9 such regulations as the interest and convenience of the inhabitants  
10 of said city, in the opinion of the board of commissioners, may  
11-21 require. The board of commissioners shall require from the  
22 person so licensed a bond, with approved security, payable to said  
23 city in such penalty, and with such conditions as it may think  
24 proper, and may revoke such license at any time if the condition  
25 of the bond is broken; and the board of commissioners shall have  
26 authority to subject any person or persons, who without having  
27 paid the tax imposed by the board of commissioners for the  
28 privilege shall do any act or follow any employment of business  
29 in the said city upon which the said board is or shall be authorized  
30 to impose a tax to any fine or imprisonment which it is or may be  
31 authorized to impose or inflict for the enforcement of its ordi-  
32 nances.

### *Nuisances.*

Sec. 58. The board of commissioners of said city shall have  
2 authority to abate and remove all nuisances in said city. It may  
3 compel the owners, agents, assignees, occupants or tenants of any  
4 lot, premises, property, building or structure, upon or in which  
5 any nuisance may be, to abate and remove the same by orders  
6 therefor, and by ordinance provide a penalty for the violation of  
7 such orders.

8 Said board of commissioners may also by its own officers,  
9 appointees and employees abate and remove nuisances. It may by  
10 ordinance regulate the location, construction, repair, use, empty-  
11 ing and cleaning of all water closets, privies, cess-pools, sinks,  
12 plumbing, drains, yards, pens, stables, and other places, where  
13 offensive or dangerous substances or liquids are, or may accumu-  
14 late, and provide suitable penalties for the violation of such regu-  
15 lations, which may be enforced against the owner, agents, assignee,  
16 occupant or tenant, of any premises or structure where such  
17 violation may occur.

18 If the owner, agent, tenant, assignee or occupant of any  
19 such premises, lot, property, building or structure as is mentioned  
- 20 herein, shall fail or refuse to abate or remove any such nuisance  
21 as mentioned herein, or to comply with the provisions of any such

22 ordinance, and the regulations herein contained, the said board of  
23 commissioners may have said nuisance abated or the provisions of  
24 said ordinance or ordinances carried out, after reasonable notice  
25 to said owner, occupant, tenant, agent or assignee of its intentions  
26 so to do, and collect the expense thereof, with one per centum per  
27 month interest added from the date of said notice, from the said  
28 owner, occupant, tenant, agent or assignee, by distress or sale, in  
29 the same manner in which taxes levied upon real estate for the  
30 benefit of said city are herein authorized to be collected, and the  
31 expense shall remain a lien upon said lot, or part of lot, the same  
32 as taxes levied upon real estate in said city; which lien may be  
33 enforced by a suit in equity before any court having jurisdiction  
34 as other liens against real estate are enforced. In case of non-  
35 resident owners of real estate such notice may be served upon  
36 any tenant, occupant, assignee, or rental agent, or by publication  
37 thereof for not less than two consecutive weeks in two newspapers  
38 of opposite politics, published in said city.

39 And in all cases where any tenant, occupant or agent is re-  
40 quired to abate and remove any nuisance under the provisions of  
41 this section, or comply with the provisions of any such ordinance  
42 as is mentioned herein, the expense thereof may be deducted out  
43 of the accruing or accrued rent of said property, or amount due  
44 said owner from said agent, and such tenant, occupant or agent  
45 may recover the amount so paid from the owner, unless otherwise  
46 especially agreed upon.

47 Any expense incurred by the board of commissioners as herein  
48 provided, in the manner aforesaid, may be collected in the man-  
49 ner herein provided, notwithstanding the imposition of any other  
50 penalty or penalties upon any of the persons named herein,  
51 under any of the provisions of this act. The abatement or re-  
52 moval of any such nuisance by the board of commissioners at  
53 the expense of said city, as herein provided, shall be *prima facie*  
54 proof that the said notice to the owner, occupant, tenant, agent  
55 or assignee, was given as herein prescribed.

Sec. 59. The board of commissioners may require all own-  
2 ers, tenants and occupants of improved property which may be  
3 located upon or near any street or alley along which may extend  
4 any sewer or system of sewerage, which the said city may con-  
5 struct, own or control, to connect with such sewer or system of  
6 sewerage, all privies, water closets, cess-pools, drains, or sinks  
7 located upon their respective properties or premises so that their

8 contents may be made to empty into such sewer or system of  
9 sewerage.

*Sidewalks and Shade Trees.*

Sec. 60. The board of commissioners are authorized and  
2 empowered to cause to be put down a suitable curb of brick,  
3 stone or other materials along and for the footways and side-  
4 walks of the avenues, streets, roads or alleys of said city, and to  
5 order and cause the laying or relaying or repair of sidewalks and  
6 gutters of such material and widths as the board may determine;  
7 and the planting or replanting of and caring for shade trees  
8 along said avenues, streets and roads at such points and in such  
9 manner as the board may determine; and to require the own-  
10 ers or occupiers of the land or lots or parts of lots facing upon  
11 said avenues, streets, roads, or alleys to keep such sidewalks  
12 clean and in good repair, and to grade the plot of ground on  
13 either side of the sidewalk between the street curb and the  
14 property line and keep the same sodded with grass and free of  
15 weeds and obstructions, and otherwise in good condition and  
16 repair. The owners or occupiers of the land or lots abutting  
17 upon such avenues, streets, roads or alleys shall not lay any  
18 sidewalks, curb or gutter, or plant any such shade trees, unless  
19 specially required to do so by resolution adopted by said board,  
20 and then only in the manner prescribed by said board; but said  
21 city may lay such sidewalk, curb or gutter, and plant or re-  
22 plant and care for said shade trees, or may let said work to  
23 contract, and in either case the total cost of said work, or such  
24 part thereof as the board may direct shall be charged upon and  
25 against the land or lots abutting upon such avenue, street, road,  
26 or alley, which assessments shall be and remain a lien upon said  
27 land or lots the same as taxes levied upon real estate in said  
28 city, which lien may be enforced by a suit in equity before any  
29 court having jurisdiction as other liens against real estate are  
30 enforced. The amounts so assessed against any land or lot shall  
31 also be a debt against the owner of such land or lot, which may  
32 be collected as other debts are collected, in any court having  
33 jurisdiction, and shall be due and payable in ninety days from the  
34 completion and acceptance of such work as certified to by the  
35 board of commissioners, with six per cent interest thereon from  
36 the date of such record acceptance. And in ascertaining the



37 amount to be assessed against any corner lot for the cost of lay-  
38 ing any such sidewalk and planting trees in front or alongside  
39 thereof, the board may assess the total cost of laying such side-  
40 walks, and planting trees, in front or alongside said lot and ex-  
41 tended to the curb or gutter of the intersections of the avenues,  
42 streets, roads or alleys at that point.

43 When such work is done by the city, and not let to contract  
44 the board shall certify such assessments to the treasurer of the  
45 city for collection, who shall account for the same as directed  
46 by the board or by ordinance; and the treasurer shall accept  
47 payment, when tendered, of the amount of said assessment with  
48 interest to the date of payment, and unless said assessment shall  
49 have been paid within ninety days from the date of such assess-  
50 ment, that a copy of such report shall be certified by the city  
51 clerk to the clerk of the county court of Cabell county, who is  
52 hereby required to record and index the same in the proper trust  
53 book in the name of each person against whose property assess-  
54 ments appear therein. If any such assessment shall not be paid

55 when due, the board of commissioners shall cause to be enforced  
56 the payment of said assessment and interest in all respects as  
57 herein provided for the collection of taxes due the city; and said  
58 assessments shall be a lien upon the property liable therefor, the  
59 same as for taxes, which lien may be enforced in the same manner  
60 as provided for the sale of property for the non-payment of  
61 taxes and tax liens; and the liens herein provided for shall have  
62 priority over all other liens except those for taxes due the state

63 and the county, and shall be on a parity with taxes and assess-  
64 ments due the city. When such assessments shall have been  
65 paid in full, and a lien therefor shall be of record in the county  
66 clerk's office, the treasurer shall execute and deliver to the owner  
67 of said property a release of said lien, which may be recorded in  
68 the office of the county clerk as other releases of liens are  
69 recorded.

70 The board may, if it so elect, let said work to contract, and  
71 certificates may be issued for the amount of said assessments  
72 which may be sold to the contractor doing the work, or other  
73 person, in full of the total cost, in the same manner as provided  
74 or paving certificates, in this act; *provided*, the city in negotiating  
75 and selling such certificates shall not be held as guarantor or  
76 in any way liable for payment thereof, except upon the direct

77 action of the board of commissioners as expressed by resolution  
78 of record before such sale. Said certificates, to be signed by the  
79 mayor and clerk or other person or persons designated of record  
80 by the board, shall bear date as of the time when such work is  
81 accepted and certified by the board of commissioners, and shall  
82 be due and payable in ninety days from date thereof, with six  
83 per cent interest. When the board shall have received said work,  
84 it shall at the same time make said assessments upon written  
85 report; and at the end of ninety days from date thereof, upon the  
86 demand in writing filed with the city clerk, of the holder or  
87 holders of the unpaid certificates issued to cover said assess-  
88 ments, said clerk shall certify a copy of said report, only insofar  
89 as it relates to the owners against whom said exhibited certificates  
90 remain unpaid, to the clerk of the county court of Cabell county,  
91 who shall record and index the same as other liens of the like  
92 kind are recorded and indexed, and the same shall be and remain  
93 a lien upon the real estate against which said assessments are  
94 made, as set out in said certified report, and said lien may be  
95 enforced, in the name of the holder of such certificate in the  
96 same manner as set out in this act.

97 Before letting such work to contract, the board shall adver-  
98 tise the same once a week for two successive weeks in two news-  
99 papers of opposite politics published in the city of Huntington,  
100 or in one paper in case publication cannot be had in two such  
101 papers, setting out the time and place for receiving proposals  
102 for such work and referring to the plans and specifications made  
103 thereof; and the city reserves the right whether stated in such  
104 notice or not, to refuse any and all bids for the work. On re-  
105 fusual of said papers to publish said notice at reasonable rates,  
106 the board may, by resolution, direct how such notice may be given.  
107 The fact that such contract shall be awarded for said work shall  
108 be *prima facie* proof that said notice was given as required herein.  
109 Such lien, as represented by certificates, may be released of record  
110 in the office of the county clerk in the same manner as paving  
111 liens, represented by certificate, are released of record as pro-  
112 vided for in this act; and in no event shall such assessment be  
113 and remain a lien of record for a longer period than one year  
114 from the date set out in said certified report so recorded in the  
115 office of the county clerk unless at the end of said one year period  
116 a suit shall be pending for the enforcement of said lien, or the

117 amount thereof shall, in some way, be involved in a suit pending  
118 at the end of said one year period.

119 All such work, whether done by the city direct, or through  
120 contractors, shall be under the supervision of the street depart-  
121 ment of the city or some person designated for that purpose by  
122 the board of commissioners.

123 If the owner or occupier of any such lot or land shall be  
124 required by the board to lay, or relay, clean or repair any such  
125 sidewalk between the street curb and the property line, and keep  
126 the same sodded and free from weeds or obstruction, and other-  
127 wise in good condition and repair, written or published notice  
128 shall be given to such owner or occupier in the manner pro-  
129 vided by ordinance or resolution adopted by the board, and the  
130 neglect or refusal of such owner or occupier to do the work, in  
131 the manner and within the time required by the board, as set  
132 out or referred to in said notice, shall be an offense and may be  
133 punished as provided by ordinance; and after the expiration of  
134 the time set out in said notice for the doing of said work, and  
135 the same remains undone, the board may do, or cause to be done,  
136 said work and assess and collect the cost thereof in the manner,  
137 upon either plan, and to full extent set out in this section.

## ARTICLE XI.

### *Taxes, Levies, Assessments, Etc.*

Sec. 61. The board of commissioners shall annually, before  
2 the levying of taxes provided for and authorized by this act, ascer-  
3 tain the total expense of said city to be provided for by levy  
4 for the fiscal year in which said levy is made, and it shall ascer-  
5 tain the sum of money necessary to pay interest accruing on the  
6 bonded indebtedness of said city, and what amounts it shall ex-  
7 pend for the support of its various departments, and for the  
8 improvements of its streets, alleys, avenues, and public grounds,  
9 or for its contingent expense; and before making such levy it shall  
10 apportion the rate thereof among the several funds so ascertained  
11 and provided for, which apportionment shall be spread upon the  
12 records of said board and a copy of a statement thereof shall be  
13 annually published by direction of said board as soon as the same  
14 is recorded, in at least two newspapers of said city of opposite  
15 politics, and for the purpose of paying the interest on the present

16 bonded indebtedness, and creating a sinking fund to pay off such  
17 indebtedness when due, that is now owed by the city of Hunting-  
18 ton and the city of Central City before the enacting of this act,  
19 the territory now comprising the city of Huntington and the city  
20 of Central City shall each constitute a separate special levy dis-  
21 trict in which district a separate levy shall be annually laid by  
22 said board of commissioners to pay the interest and create a sink-  
23 ing fund in said respective districts to pay off and discharge the  
24 said bonded indebtedness of each of said cities respectively, and as  
25 soon as such indebtedness has been paid by such special levy in  
26 either of said districts, then that district shall thereby be abolished,  
27 and the remaining levy district retained and such special levy  
28 aforesaid annually laid until said indebtedness of that district be  
29 fully discharged, in consequence of which that district shall also  
30 be abolished, so that the bonded indebtedness of each of the munic-  
31 ipal corporations, namely, Huntington and Central City, the  
32 territory of each being embraced and included in this act, with  
33 the accrued and accruing interest against each, shall be provided  
34 for and paid out of levies on property and taxable subjects of  
35 each, within the boundaries of said corporations respectively, as  
36 they were respectively just prior to the passage of this act; and  
37 said boundaries shall be observed and recognized in making levies  
38 and assessments for the payment of said bonds and interest as  
39 separate taxable districts for said purposes only; and that the  
40 territory embraced in this act, not within the boundaries of either  
41 of said former municipalities, shall not become liable or taxed to  
42 pay any part of the said indebtedness or interest thereon of said  
43 corporations.

Sec. 62. The board of commissioners shall have authority  
2 to levy and collect an annual tax on real estate and personal  
3 property in said city, and to impose a license and assess a tax  
4 thereon on wheeled vehicles for public hire, and upon all dogs  
5 kept within said city, and to impose a tax upon all other subjects  
6 of taxation, under the several laws of the state, which taxes shall  
7 be uniform with respect to persons and property within the juris-  
8 diction of said city, and shall only be levied on such property,  
9 real, personal and mixed, and on capital, on which the state im-  
10 poses a tax; *provided*, that no greater levy shall be laid by said  
11 board of commissioners except the ten cents levy authorized by  
12 this act, on the taxable property of said city than is now per-  
13 mitted to be laid under the state law relating to municipalities,

14 except, however, that the said board of commissioners may, by  
15 the unanimous vote of its members, by ordinance, lay an addi-  
16 tional levy not to exceed twenty cents on the one hundred dollars  
17 of all the taxable property within said city; but said ordinance  
18 laying said additional levy shall not become effective or operative if  
19 two-fifths of all the members elected to the citizens' board shall  
20 express a veto to said ordinance, in the manner prescribed by this  
21 act.

Sec. 63. All taxes assessed upon the real estate within the  
2 said city, shall remain a lien thereon from the time the same are  
3 so assessed, which shall have priority over all other liens, except  
4 for taxes due the state, county or district, and all taxes whether  
5 assessed upon realty or personalty or otherwise may be enforced  
6 and collected in the same manner and by the same remedies as  
7 is now or may hereafter be provided by law for the enforcement  
8 of liens and levies for state and county taxes, or in such manner  
9 as the board of commissioners may by ordinance prescribe. And  
10 in levying taxes and collection thereof, and the return of prop-  
11 erty delinquent for non-payment of taxes, the duties of the city  
12 clerk shall be similar to the duties of the county clerk of Cabell  
13 county in that behalf; the duties of the treasurer in the collection  
14 of taxes, licenses and money due the city and accounting for the  
15 same and the return of property delinquent for the non-payment  
16 of taxes, shall be similar to the duties of the sheriff of Cabell  
17 county; except the board of commissioners may make such regu-  
18 lations and ordinances prescribing the duties of the city clerk and  
19 city treasurer and their manner of performance as the board may  
20 deem necessary. And the board shall, through itself and such  
21 officers and employees as it may appoint or employ under such  
22 regulations and ordinances as it may enact (not contrary to the  
23 laws of this state), have such authority and power as may be  
24 necessary for the levying and collection of taxes, tithables, fines,  
25 licenses, sewer and paving assessments owing the city with power  
26 and authority to enforce the collection of such fines by imprison-  
27 ment in the city or county jail.

Sec. 64. No taxes or levies shall be assessed upon or col-  
2 lected from the taxable persons or property within the corporate  
3 limits of said city, for the construction, improvement or keep-  
4 ing in repair of roads or the building, leasing, repairing of school  
5 houses, or the purchase of lands for the same, or for the support

6 of the schools, or for the support of the poor of Cabell county,  
7 outside of said corporate limits, for any year in which it shall  
8 appear that said city shall at its own expense provide for its own  
9 poor and keep its own roads, streets, and bridges in good order.  
10 And neither the county court of Cabell county, nor the authori-  
11 ties of the district in which said city is situated, shall have or  
12 exercise jurisdiction within the corporate limits with relation to  
13 the roads, streets, alleys, bridges, wharves, docks, ferries, schools  
14 or school houses, but the same shall be and remain under the  
15 exclusive jurisdiction and control of the municipal authorities of  
16 said city, except that the board of education in the independent  
17 school district of the city of Huntington shall have jurisdiction,  
18 supervision and control of the schools and school houses in said  
19 district; and said city shall be liable only for the construction,  
20 improvement, repair and good order of the roads, streets, alleys,  
21 wharves and bridges in its corporate limits.

Sec. 65. There shall be a tax of two dollars annually as-  
2 sessed on each and every male inhabitant of said city, over twenty-  
3 one and under fifty years of age, by the board of commissioners,  
4 and the same shall be set out and included in the personal prop-  
5 erty book against every such inhabitant, and shall be collected  
6 by the city treasurer or other officer of the city acting in lieu  
7 thereof and under the authority of the board of commissioners, at  
8 the time of collecting other levies and taxes. All money collected  
9 under this section shall go into the street and wharf fund, or like  
10 fund, to be expended upon the roads, streets, and alleys, side-  
11 walks, crosswalks, drains, gutters, wharf and bridges of said city.

• Sec. 66. It shall be the duty of the city treasurer to keep  
2 all funds of the city in some bank or banks within said city which  
3 shall pay two per cent or more per annum interest on such de-  
4 posits, payable quarterly, based on the average daily balance of  
5 such funds in all accounts. If no bank within said city is will-  
6 ing at any time to receive deposits of the treasurer and to pay  
7 such interest thereon the treasurer shall report this fact to the  
8 board of commissioners who shall thereupon designate a bank or  
9 banks in which he shall deposit said funds for the time being and  
10 until some bank in said city will receive such deposits on such  
11 terms. Before receiving any such deposits said bank or banks  
12 shall give bond in the penalty prescribed by the board of com-  
13 missioners, and with sureties to be approved by said board, con-

14 ditioned for the prompt payment, whenever lawfully required, of  
15 all the city moneys, or parts thereof which may be deposited with  
16 them, which bonds shall be renewed at such times as the board of  
17 commissioners may require.

*Street Paving.*

Sec. 67-(a). The board of commissioners of the city of  
2 Huntington may order and cause any avenue, street, road or  
3 alley therein to be graded, or curbed or recurbed with stone,  
4 concrete or other suitable material, or paved or repaved, between  
5 curbs, with brick, wooden blocks, asphalt or other suitable ma-  
6 terials, or to be graded and curbed or recurbed and paved or  
7 repaved as aforesaid, or to be macadamized or to be otherwise  
8 permanently improved or repaired, under such supervision as  
9 may be directed by ordinance or resolution, upon the best bid  
10 to be obtained by advertising for proposals therefor, except the  
11 city may do the work without letting it to contract as herein-  
12 after provided in (d) of this section; and may purchase or con-  
13 demn land for opening or widening avenues, streets, roads and  
14 alleys. The entire cost, or any part thereof designated by the  
15 board of commissioners, of such grading, curbing and paving or  
16 macadamizing, or other permanent improvements, of any of the  
17 avenues, streets, roads and alleys as aforesaid, from and in-  
18 cluding the curb of either side thereof to the middle thereof and  
19 the cost, or any part thereof, of purchasing or condemning land  
20 as aforesaid for street purposes, may be assessed to and required  
21 to be paid by the owners of the land, lots or fraction parts of  
22 the lots fronting or bounding on such avenue, street, road or  
23 alley so improved, except as otherwise provided in (g) of this  
24 section.

25 (b) Payment is to be made by all land owners on either  
26 side of such portion of any avenue, street, road or alley so paved,  
26-a opened, widened, or improved in such proportion to the total  
27 cost (less the portion, if any, chargeable to the street or other  
28 railway company) as the frontage in feet of his abutting land  
29 bears to the total frontage of all the land so abutting on said  
30 avenue, street, road or alley or portions thereof opened, widened,  
31 paved or improved as aforesaid; but the cost of such paving or  
32 improvement on said avenue, street, road or alley (not including  
33 opening or widening) shall not include any portion or amount

34 paid or the paving or improvement of intersections of avenues,  
35 streets, roads or alleys, unless the work to be done, and the pay-  
36 ment made therefor, as especially provided herein, as follows,  
37 to wit:

38       (c) Upon petition in writing of the owners of not less  
39 than one-half in lineal feet of property abutting upon any ave-  
40 nue, street, road or alley in said city, asking the city to grade,  
41 curb, pave or macadamize, or otherwise to permanently improve,  
42 such avenue, street, road or alley, and offering in said petition  
43 to have their property so abutting as aforesaid assessed not only  
44 with their part of the cost of such improvement abutting upon  
45 their property, as herein otherwise provided, but also offering to  
46 have their said property proportionately assessed with the total  
47 costs of the paving, grading and curbing, or macadamizing, or  
48 other permanent improvements, of the intersections of the avenue,  
49 street, road or alley so paved or otherwise permanently improved,  
50 as petitioned for, the board of commissioners may order such  
51 work to be done, as heretofore provided in this section, and the  
52 total cost thereof, including cost of intersection, to be charged  
53 to and paid by the owners of the property abutting on such ave-  
54 nue, street, road or alley, and that the paving assessment or  
55 certificate made or issued to cover the cost of paving, grading  
56 and curbing or otherwise permanently improving such inter-  
57 section shall be made a separate and one of the last assessments  
58 or certificates due against them and their property so assessed;  
59 and the city may assume the payment of such assessments or  
60 certificates covering the cost of such intersection, or may reim-  
61 burse the property owners paying the same, out of its general  
62 levy for streets, but there shall be no legal obligation on the city  
63 to do so.

64       (d) The city itself may do such work and charge and  
65 collect the cost thereof in the manner set out in this act. The  
66 decision of the city to do such work may be without notice or  
67 after the publication of the notice mentioned in this section, or  
68 after the rejection of all bids for the doing of this work.

69       (e) The cost of grading, curbing and paving, or other-  
70 wise improving, the intersections, or parts of intersections, of  
71 avenues, streets, roads or alleys, on the plans adopted by the  
72 board of commissioners for such work, shall be paid by the city,  
73 except as otherwise provided in (c) of this section.



74 (f) And if any such avenue, street, road or alley be occu-  
75 pied by street car track or tracks of other railroads, the cost  
76 of said improvements of the space between the rails and two  
77 additional feet outside of each rail shall be assessed to and borne  
78 and paid entirely by the person or company owning or operating  
79 such street car or other railway line, unless otherwise provided  
80 by the franchise of such street car or other railway company  
81 granted previous to the passage of this act.

82 (g) *Provided*, the board of commissioners, if they so elect,  
83 may order and cause any avenue, street, road or alley, public  
84 park or public place to be widened, graded or changed in grade  
85 and curbed or recurbed, and paved or repaved, with brick, con-  
86 crete, asphalt or any other suitable materials, or macadamized, or  
87 otherwise permanently improved, including the construction of  
88 retaining walls, sewers, drains, water pipes, water dams and  
89 water courses, in connection therewith, and may purchase land,  
90 or condemn land as provided in this act, for any public avenue,  
91 street, road or alley, or part thereof or park or other public pur-  
92 pose; and the board may assess all or any part of the entire cost  
93 of such improvements (or taking of land, or both) upon the  
94 abutting, adjacent, contiguous and other lots or land especially  
95 benefitted by such improvement; *provided, however*, that the  
96 owner of any real estate whose property is to be charged for the  
97 paving of any street or alley of said city, or for the laying of any  
98 sewer therein, may object to the paving thereof, or the laying of  
99 such sewer, which objection shall be filed with the said board of  
100 commissioners, and when such objections are so filed, and the  
101 said board of commissioners shall order the said paving to be  
102 done, or said sewer to be laid, the said party so objecting shall  
103 have the right of appeal from such order to the citizens' board of  
104 said city, and no further proceedings under such order shall be  
105 had until such citizens' board shall have passed on such appeal,  
106 and the citizens' board in passing on such appeal shall have the  
107 power to ratify or reject and shall ratify or reject the said order  
108 of the board of commissioners as to such paving or sewer, and  
109 if such order of the board of commissioners is set aside by said  
110 citizens' board, the same shall be invalid, and upon such appeal  
111 and a vote taken to ratify said order of the board of commis-  
112 sioners a majority of all members elected to said citizens' board  
113 must vote to ratify said order of the board of commissioners, or

114 the said appeal shall be held sustained and the said order re-  
115 jected and thereby rendered invalid and annulled.

116       The board of commissioners, when they decide to order the  
117 improvements under this plan shall, by ordinance or resolution,  
118 before doing the same, fix the total amount of the special bene-  
119 fits to be derived from such improvements to the abutting ad-  
120 jacent, contiguous and other specially benefitted land or lots so  
121 assessed, setting out the names of the owners, the amount of the  
122 special benefits, and the approximate amount of the total cost of  
123 the proposed improvements; and the board may, in fixing such  
124 assessments, take into consideration the assessed value of the lots  
125 or land as fixed, for the last assessment year, for state and county  
126 purposes.

127       (h) When the board of commissioners shall deem it ex-  
128 pedient and proper to cause any avenue, street, road or alley, or  
129 any portion thereof, in such city, to be graded, or graded and  
130 paved, curbed or macadamized, or otherwise permanent im-  
131 proved, or land to be acquired or taken for street purposes, as  
132 provided in (a) of this section, or shall deem it expedient and  
133 proper to cause the construction of any public sewer in or under  
134 such avenue, street, road, or alley, or land or easement therein  
135 to be acquired or taken therefor, or elsewhere, as provided in  
136 this act, they shall by ordinance or resolution, order the work  
137 done, stating the method of payment thereof, and, if it be let  
138 to contract, notice shall be in the following manner, to-wit:

139       (i) The notice for the bids or proposals for doing such  
140 improvements, either for street improvements or the construc-  
141 tion of sewers, shall be published for at least fifteen days in two  
142 newspapers of opposite politics, or in one newspaper if two such  
143 newspapers be not published in the city. If the publication of  
144 the notice cannot be procured in any newspaper in said city at  
145 reasonable rates, then said notice may be given in the manner  
146 directed by the board. Said notice shall state when, where and  
147 how the bids or proposals shall be made; and, whether so stated  
148 in the notice or not, the city may reject any and all bids for such  
149 proposed work. Before advertising for bids on the work, the  
150 city shall approve and adopt plans and specifications therefor,  
151 and the advertisement for bids, and the contract awarded thereon,  
152 shall refer to such plans and specifications. The fact that such

153 contract shall be let for said work shall be *prima facie* proof that  
154 the notice mentioned above was given as required herein.

155 (j) The cost of said paving, macadamizing or otherwise  
156 permanent improvement may be paid in either one of the two  
157 ways provided for in this act (to be specified by ordinance by  
158 the board of commissioners).

159 (k) If the abutting land on any such avenue, street, road  
160 or alley sought to be improved as aforesaid, or in which a sewer  
161 is ordered laid, is not laid off into lots by a map of record, the  
162 board of commissioners may, for the purpose of making the  
163 assessments provided for in this section and other sections herein,  
164 lay off said land into lots of such sizes as the board deems ad-  
165 visable for the purpose of laying the proper assessment against  
166 such land.

Sec. 69 (a), Said city of Huntington is hereby authorized  
2 to issue its bonds for the purpose of providing for the costs of  
3 grading, paving and curbing, or macadamizing, or otherwise  
4 permanently improving the avenues, streets, roads and alleys of  
5 said city, in anticipation of special assessments to be made upon  
6 the property abutting upon the avenues, streets, roads and alleys  
7 so improved. Said bonds may be in such an amount as shall be  
8 sufficient to pay the entire costs and expenses of said improve-  
9 ments for which such special assessments are to be levied; and  
10 said city is authorized to sell said bonds, but not below the par  
11 value thereof. The amount for which said bonds are issued shall  
12 be made up of five bonds, payable in two, four, six, eight and ten  
13 years, respectively, from the date of their issue, and shall bear  
14 interest not to exceed six per cent per annum, payable annually;  
15 and in the issuance and sale of said bonds the said city shall be  
16 governed by the restriction and limitations of the constitution  
17 of this state, and the restriction and limitations of the state laws  
18 of this state relating to the issuance and sales of bonds, so far  
19 as such state laws are not in conflict with the provision of this  
20 act; and the assessments as provided for and required to be paid  
21 herein shall be applied to the liquidation of said bonds and in-  
22 terest thereon, and if, by reason of the penalties collected with  
23 the delinquent assessments, there be any balance after the pay-  
24 ment of the bonds and all accrued interest and costs, it shall be  
25 turned into the city treasury to the credit of the interest and  
26 sinking fund of the city.

27 But said city shall not become indebted in any manner or  
28 for any purpose to an amount, including existing indebtedness,  
29 in the aggregate exceeding two and one-half per centum on the  
30 value of all the taxable property therein, as provided in chapter  
31 fifty-one of the acts of the legislature of one thousand nine hun-  
32 dred and five, except for the purpose of grading, curbing, paving,  
33 macadamizing, or otherwise permanently improving the avenues,  
34 streets, roads and alleys therein, or constructing sewers therein  
35 or elsewhere, or acquiring or taking land or easemtn therein  
36 for street and sewer purposes, as provided for in this act, and for  
37 that purpose in estimating "existing indebtedness," special assess-  
38 ment bonds representing the cost of paving or other improve-  
39 ments of streets, roads, or alleys, or the construction of sewers,  
40 or acquiring or taking land for such purposes, and cost of which  
41 is assessed against the abutting property on such avenues, streets,  
42 roads or alleys, or specially benefited property adjacent thereto,  
43 or on such owner, shall not be included; and likewise the amount  
44 in any sinking fund, or the amount invested therefor as pro-  
45 vided by law, for the payment of outstanding bonds, shall not  
46 be included in the estimate of existing indebtedness, provided,  
47 that the aggregate of its debt of every kind whatsoever, including  
48 such special street permanent improvement bonds, or sewer bonds,  
49 shall not exceed five per centum of the value of all taxable prop-  
50 erty therein.

51 (b). And it shall be the duty of the board of commissioners  
52 to immediately certify such assessments to the treasurer for col-  
53 lection, as herein provided; and for the purpose of facilitating  
54 the collection of such assessments against the properties herein,  
55 the board of commissioners may issue assessment certificates,  
56 with the interest coupons attached thereto, to be delivered to and  
57 charged against the city treasurer who shall collect the same,  
58 and as such certificates and coupons are paid he shall deliver the  
59 cancelled certificates to the party paying the same. A copy of  
60 the said order shall be certified by the city clerk to the clerk of  
61 the county court of Cabell county, who is hereby required to  
62 record and index the same in the proper trust deed book in the  
63 name of each person against whose property assessments appear  
64 therein.

65 (c). The amounts so assessed against said abutting lots and  
66 owners thereof, respectively, shall be paid in ten payments, as  
67 follows; that is to say, one-tenth of said amount together with

68 interest on the whole assessment for one year shall be paid into  
69 the treasury of the city before the first day of the following Jan-  
70 uary; and a like one-tenth part, together with interest for one  
71 year upon the whole amount remaining unpaid before the first  
72 day of January in each succeeding year thereafter, until all shall  
73 have been paid. Each of said installments of one-tenth shall bear  
74 interest at six per centum per annum payable annually from the  
75 date of assessment. *Provided, however,* that the owner of any  
76 land, so assessed for the cost of the paving of said avenue, street,  
77 road or alley, shall have the right at any time to anticipate and  
78 pay the whole of such unpaid assessment and interest thereon  
79 until the first day of the following January, and have the lien  
80 against the property so assessed released as hereinafter provided.

81 (d). If any assessment shall not be paid when due, the board  
82 of commissioners shall cause to be enforced the payment of said  
83 assessment and interest in all respects as herein provided for the  
84 collection of taxes due the city; and said assessments shall be a  
85 lien upon the property liable therefor the same as for taxes, which  
86 lien may be enforced in the same manner as provided for the sale  
87 of property for the payment of taxes and tax liens; and the liens  
88 herein provided for shall have priority over all other liens except  
89 those for taxes due the state and the county, and shall be on a  
90 parity with taxes and assessments due the city.

91 (e). When all of said assessments for grading, paving and  
92 curbing or macadamizing or other permanent improvements shall  
93 be paid in full to the treasurer, he shall deliver to the owner of  
94 said property a release of the lien therefor, which may be recorded  
95 in the office of the clerk of the county court as other releases of  
96 liens are recorded.

97 Under this plan for the payment of the cost of such per-  
98 manent improvements of avenues, streets, roads and alleys, and  
99 the constructions of sewers, the contractor (if the work is let to  
100 contract) shall look only to the city for the payment of the work,  
101 and in no sense to the abutting land owners.

Sec. 70. The board of commissioners may contract for such  
2 paving (including grading and curbing), or other said improve-  
3 ments, to be done as aforesaid, and may acquire or take land for  
4 street purposes, as aforesaid, and may if the board so elect stipu-  
5 late that the costs thereof, in whole or in part, shall be paid in in-  
6 stallments by the abutting property owners, as provided in (a) of  
7 section sixty-seven, or specially benefited property owners, as

8 provided in (g) of said section, in five equal installments, to be  
9 evidenced by five paving certificates issued therefor, payable in  
10 thirty days, and one, two, three and four years, respectively, after  
11 the date of their issue, and shall bear interest not to exceed six  
12 per centum, per annum, which certificates, to be signed by the  
13 mayor and clerk, or other person or persons designated of record  
14 by the board, may be sold, either to the contractor doing the pav-  
15 ing or other said improvements, or to any other person, and which  
16 shall cover the entire cost of such work, or the cost of acquiring or  
17 taking land for street purposes, including the cost of surveys,  
18 notices and other things pertaining thereto; *provided*, the city in  
19 negotiating and selling such certificates, shall not be held as guar-  
20 antor or in any way liable for payment thereof, except upon the  
21 direct action of the board of commissioners as expressed by reso-  
22 lution of record before such sale. And the certificates covering  
23 the amount of the assessment shall be paid by the owner of the  
24 land, lot or fractional part thereof, so assessed for the cost of said  
25 improvement on such avenue, street, road or alley so paved or im-  
26 proved, of land acquired or taken, as aforesaid. The amount  
27 specified in said assessment certificates shall be a lien aforesaid in  
28 the hands of the holder thereof upon the lands, lot or part so as-  
29 sessed, and shall also be a debt against the owner of such real  
30 estate, and said amount shall draw interest from the date of said  
31 certificates, payable annually, and the payment of the debt may be  
32 enforced as provided by law for the collection of other debts, or  
33 such lien may be enforced as provided in this act in the name of the  
34 holder of such certificates.

35       After a contract has been made by the board to pave or other-  
36 wise permanently improve any public road, avenue, street or alley  
37 in said city under this act, and the paving or other permanent  
38 improvements, or stipulated part thereon, has been completed, or  
39 the cost of acquiring or taking land, as aforesaid, has been ascer-  
40 tained, the board shall assess the amount each lot shall bear and  
41 shall make a written report, stating the number of lots and the  
42 blocks or tracts of land when not laid off into lots, the amount  
43 the owners of such lots or land when known, and the amount as-  
44 sessed thereon; and when the said board approves said report, or  
45 modifies it and then approves it, a copy of said report, so adopted  
46 by the board when certified to by the city clerk of said city, may  
47 be recorded in the clerk's office of the county court of Cabell  
48 county in a trust deed book and shall be a continuing tax lien

49 upon the lot or ground against which the assessment is made until  
50 the certificates as aforesaid are paid, except as otherwise provided  
51 in this act, and the clerk shall index the same in the name of each  
52 lot or land owner mentioned therein. Provided that any property  
53 owner shall have the right to pay any assessment against his  
54 property as soon as the same shall have been ascertained and  
55 anticipate all payments.

Sec. 71. The board of commissioners of said city are author-  
2 ized and empowered to order and cause to be constructed, in said  
3 city, or part within and part outside of the limits of said city, a  
4 public sewer, either main or lateral, or both, by contract or direct  
5 by the city, for the benefit of said city or any part thereof, and  
6 to purchase land or easement therein or to condemn land or ease-  
7 ment therein in the manner provided in this act, for such sewer;  
8 and when the board shall order the construction of any such sewer  
9 or any part thereof in said city, the owners of the property abut-  
10 ting thereon or abutting upon an avenue, street, road or alley in  
11 which such sewer shall be constructed, or abutting on any land or  
12 easement therein specially procured for the purpose of the con-  
13 struction of a sewer therein, may be charged with all or any part  
14 of the cost thereof, including the cost of such sewer at and across  
15 intersections at avenues, streets, roads and alleys adjacent there-  
16 to. If said work is let to contract, the provision of (i) of section  
17 sixty-seven shall apply.

18 When said sewer is completed in any one block, or between  
19 two designated points, the board of commissioners shall cause a  
20 report to be made in writing setting out the total cost of such  
21 sewer and a description of the lots or land as to location, frontage  
22 and ownership liable therefor, including the cost of acquiring or  
23 taking land or easement therein for such purpose and cost of sur-  
24 veys, notices, etc. therefor, together with the amount chargeable  
25 against each lot or piece of land and the owner thereof. If any lot  
26 fronts on two streets, or on a street and road, or on a street (or  
27 road) and alley in which a sewer is constructed, it may be assessed  
28 on both said streets, or street and road, or street and alley. Said  
29 board shall enter an order upon its records setting forth the loca-  
30 tion and owner of each lot or piece of land, and the amount of  
31 said sewer assessments there against, calculated in the same way  
32 as provided for street paving in (g) of section sixty-seven herein.  
33 The entry of such order shall constitute and be an assessment for  
34 such proportionate amounts so fixed therein against respective

35 lots and land and the owners thereof; and said board shall there-  
36 upon certify the same to the treasurer for collection; and for the  
37 purpose of facilitating the collection of such assessments against  
38 the properties herein, the board of commissioners may issue as-  
39 sessment certificates, with interest coupons attached thereto, to be  
40 delivered to and charged against the city treasurer who shall col-  
41 lect the same and as such certificate and coupons are paid he shall  
42 deliver the canceled certificates to the party paying the same and  
43 the city clerk shall file a certified copy of said order with the clerk  
44 of the county court of Cabell county, who shall record the same in  
45 the proper trust deed book, and index the same in the name of  
46 each owner, of any lot or land thus charged with said assessment,  
47 and the assessments so made shall constitute and be a lien upon  
48 said lots or land, respectively, which shall have priority over all  
49 other liens except those for taxes due the state and county, and  
50 shall be on a parity with other taxes and assessments due the city.

51       The amounts so assessed against said abutting lots or land  
52 and which shall be a lien thereagainst, shall be collected in the  
53 manner provided in this act for the collection of paving liens.  
54 Said assessments shall be divided into three installments, each for  
55 one-third of the amount thereof, and the first due and payable  
56 in thirty days, the second in one year, and the third in two years  
57 from the time of certifying the same to the treasurer, except as  
58 hereinafter provided in this section, all bearing interest at six  
59 per centum per annum from such date, payable annually; and  
60 the board of commissioners may issue sewer certificates thereon,  
61 as of said date, as further evidence of said indebtedness and lien  
62 therefor, and said certificates may be sold or negotiated, at not  
63 less than par and without any kind of discount to the contractors  
64 doing such work, or other person if the board deem it expedient;  
65 provided, the city in negotiating and selling such certificates shall  
66 not be held as guarantor or in any way liable for payment thereof,  
67 except upon the direct action of the board of commissioners as  
68 expressed by resolution of record before such sale. But the owner  
69 of the land or lot so assessed may at any time anticipate and pay  
70 such assessment or certificate with accrued interest thereon. If  
71 such assessment shall not exceed fifteen dollars, it shall be in one  
72 amount due and payable in thirty days from date; if more than  
73 fifteen dollars and less than thirty dollars, then in two install-  
74 ments of equal amounts, due and payable in thirty days and one  
75 year, respectively, from date; and if more than thirty dollars,



76 then in three equal installments due and payable as first afore-  
77 said.

78 *Provided*, the board of commissioners may, if they so elect,  
79 order and cause the construction of any such sewer, and may  
80 acquire or take land or easement therein, either in or outside  
81 said city, or both for said sewer purposes, and assess all or any  
82 part of the cost thereof upon and against the abutting, adjacent,  
83 contiguous and other lots or land especially benefited by the  
84 construction of such sewer, and said assessments shall be a lien  
85 upon such lots or lands, and a debt against the owners thereof  
86 for the amount so charged against them respectively, which debt  
87 may be collected as provided by law for the collection of other  
88 debts of like kind, and which lien may be enforced in the same  
89 manner as provided for the enforcement of paving liens in this act.

90 The board of commissioners, when they decide to order the  
91 construction of a sewer under this plan, shall, before doing the  
92 same, fix, by ordinance or resolution, the total amount of the  
93 special benefits to be derived from such improvements to the abut-  
94 ting, adjacent, contiguous, and other specially benefited land or  
95 lots so assessed, setting out the names of the owners, the amount  
96 of the special benefits, and the approximate amount of the total  
97 costs of the proposed sewer, and the board may, in fixing such as-  
98 sessment, take into consideration the assessed value of the lots or  
99 land as fixed, for the last assessment year, for state and county  
100 purposes.

#### *Release of Liens.*

Sec. 72. In addition to the provisions for the release of said  
2 assessment liens, either for street paving or other permanent  
3 street improvements, or construction of sewers, as elsewhere set  
4 out in this act, on the presentation by the land or lot owner of  
5 any of the certificates issued as aforesaid against him or his pre-  
6 decessor in title to such lot, the clerk of the county court shall  
7 mark upon the margin of the trust deed book at which said cer-  
8 tified report is recorded, that the lien is released to the land or  
9 lot mentioned in such certificate to the extent of the amount of  
10 the certificates thus exhibited; and the county clerk shall there-  
11 upon write across the face of each of said certificates the date of  
12 their production to him for the release of lien, and shall sign  
13 his name thereto in his official capacity, for which he shall re-

14 ceive in advance a fee of twenty-five cents for each certificate so  
15 marked, from the person demanding the release of the lien afore-  
16 said; but if more than one of the serial certificates against the  
17 land or lot or lots shall be produced at the same time, the fee of  
18 the county clerk shall not exceed twenty-five cents for the release  
19 of the liens as to all of the certificates thus produced and relating  
20 to the same real estate.

21 *Provided*, that the owner of any lot or land against which  
22 any paving or sewer certificate is an unreleased lien of record  
23 shall make and produce to the county clerk, or some person for  
24 such owner shall make and produce such affidavit, setting out  
25 therein that such certificate (or certificates) has been paid in  
26 full, and after diligent search, cannot be found, said county clerk  
27 shall upon the payment of a fee of twenty-five cents, file and pre-  
28 serve said affidavit as a public document and shall forthwith note  
29 the release of said lien to the extent of said lost certificate (or  
30 certificates) and the lots or land against which it is a lien upon  
31 the margin of the trust deed book, as aforesaid, and noting there-  
32 with the filing of said affidavit, which shall operate as a release  
33 of such lien to the extent of such marginal notation. If the affi-  
34 davit so filed be false, the person making oath and subscribing  
35 thereto shall be guilty of a felony, and upon conviction thereof  
36 shall be fined not to exceed five hundred dollars, or sentenced to  
37 be confined in the penitentiary for a term of not more than one  
38 year, or both, in the discretion of the court passing sentence.

39 *Provided, further*, that any paving or sewer lien, which may  
40 be created in consequence of the provisions of this act, or a lien  
41 which may have heretofore been created in consequence of an act  
42 of which this is an amendment for an assessment, the last pay-  
43 ment of which is not yet due, shall not, under any circumstances,  
44 be a lien against the lot or land or fractional part of the lot or  
45 land, against which it may have been assessed and made a lien,  
46 for a longer period than one year after the last assessment or  
47 certificate of the same date and group, representing such lien,  
48 shall have become due and payable, unless some suit or action, at  
49 the termination of said one year period, shall be pending for the  
50 enforcement of such lien, or unless the amount of the lien or some  
51 part thereof is in some way involved in a suit or action pending  
52 at the end of said one year period; and further, that no such  
53 paving or sewer lien heretofore placed to record in said county  
54 court clerk's office for an assessment the last payment of which is

55 past due, shall remain or be a lien against the real estate therein  
56 described for a longer period than one year from the time this act  
57 takes effect, unless a suit shall be pending at the end of each one  
58 year period for the enforcement of said lien, or the amount thereof  
59 shall in some way be involved in some action then pending.

60 All of the assessment certificates, which may be issued under  
61 the provisions of this act, shall be made payable at the office of  
62 the treasurer, who shall receive payments thereon when due, if  
63 tendered to him, and interest thereon, from the date of such  
64 payments shall cease. The treasurer shall keep a separate and  
65 special account of all said sum of money received by him, and he  
66 shall hold said money in trust for the person who thereafter de-  
67 livers to the treasurer for cancellation any and all certificates on  
68 which said treasurer has received full payment as aforesaid; but  
69 the owner of said certificates shall not be entitled to interest on  
70 said sum after the date of payment thereof to the treasurer.  
71 When the whole amount of any such assessment lien shall have  
72 been paid to the treasurer as aforesaid, or the treasurer shall be  
73 convinced that all of the paving or sewer certificates against any  
74 land, lot or fractional part of lot, shall have been paid in full, he  
75 shall, when demanded, execute a release of said lien in the manner  
76 hereinbefore provided for the release of paving liens. If the city  
77 shall have no person for treasurer, the clerk, unless some other  
78 person is designated by ordinance, which the board of commis-  
79 sioners is hereby authorized to enact, shall perform the duties  
80 here required to be performed by the treasurer.

Sec. 73. It shall be lawful for said city of Huntington to  
2 issue and sell its bonds, as provided in this act for the sale of  
3 other paving and sewer bonds, to pay the city's part of the cost  
4 of construction of said sewers and the paving or other permanent  
5 improvements of streets and alleys, as required by this act; and  
6 said city may levy taxes, in addition to all other taxes, authorized  
7 by law, to pay such bonds and interest thereon; *provided*, that the  
8 total indebtedness of the city for all purposes shall not exceed  
9 five per centum of the total value of all taxable property therein.

10 It is expressly provided that no bonds shall be issued under  
11 the provisions of this act, unless and until the question of issuing  
12 said bonds shall have first been submitted to a vote of the people  
13 of said city and shall have received three-fifths of all votes cast  
14 at said election for and against the same. The board of commis-  
15 sioners of said city may provide by ordinance for submitting to

16 the people at any regular election, or special election called for  
17 that purpose, the question whether or not said city shall be  
18 authorized to issue bonds for the purpose specified in this act;  
19 but the ordinance relating to the issuance of said bonds, and the  
20 submission of the same to the vote of the people, need not specify  
21 in detail the location of the improvements contemplated to be  
22 paid for out of, and works to be constructed with, the proceeds  
23 of sale of said aggregate issue authorized thereby; and if at such  
24 election the people by their vote thereon shall authorize the issu-  
25 ance of said bonds, said board of commissioners may order the  
26 sale of same, as needed for said improvements and works, dealing  
27 with all the requirements set forth in this act; and notwithstand-  
28 ing the provisions of sections two, three and six of chapter forty-  
29 seven of the code, it shall be sufficient description of the purpose  
30 for which said election is held for the ordinance calling the same,  
31 or submitting said question to a vote at any general election, if  
32 it shall recite that it authorizes the board of commissioners to  
33 issue bonds for the purpose of grading, paving, curbing, sewer-  
34 ing, or otherwise permanently improving the streets, roads, and  
35 alleys of said city, or the leasing, purchasing, erecting, main-  
36 taining and operating the water works system authorized by this  
37 act, at such time as the board of commissioners shall deem fit  
38 or expedient.

39 The provisions of chapter forty-seven-a of the code, con-  
40 cerning bond election shall, so far as they are not in conflict with  
41 the provisions of this chapter, apply to the bond election and  
42 special election herein provided for.

Sec. 74. For the purpose of leasing, purchasing or erecting,  
2 owning, maintaining, and operating a system of water works for  
3 the city and the inhabitants and industries thereof, and the in-  
4 habitants and industries of any territory adjacent to the territory  
5 of the city of Huntington which the board of commissioners may  
6 from time to time agree to supply from the city water works, as  
7 provided for in this or any other act of the legislature, said city  
8 of Huntington is hereby authorized to issue and sell its bonds,  
9 which shall bear interest not to exceed six per cent per annum,  
10 interest payable annually, by which to procure funds for such pur-  
11 pose; and for said purpose the city may issue and sell its bonds  
12 to an amount equal to two and one-half per centum on the tax-  
13 able property therein in addition to the aggregate of its debts  
14 for all other purposes and of every kind whatsoever, and especially

15 in addition to the bonds, and other debt provided for and re-  
16 ferred to in section seventy-nine of said chapter three of the acts  
17 of one thousand nine hundred and nine. *Provided*, that the  
18 total indebtedness of said city for all purposes shall not exceed  
19 five per centum of the total value of all taxable property therein.

20 But said city shall not make such issue and sale of bonds  
21 without at the same time providing for the collection of a direct  
22 annual tax sufficient to pay annually the interest on such debt  
23 and the principal thereof within and not exceeding thirty years,  
24 and for the purpose of aiding in the payment of any bonds issued  
25 under the provisions of this act, to enable the city to lease, pur-  
26 chase, own, operate and maintain a water works and system, the  
27 commissioners of the city are hereby authorized to lay a levy of  
28 not exceeding ten cents on the one hundred dollars valuation on all  
29 taxable property in the city, which said levy may be in addition to  
30 the aggregate of all other levies, authorized by law; and any reve-  
31 nue derived from said water works over and above the expenses  
32 of operating and maintaining the same, shall be applied to the  
33 payment of the bonds issued therefor.

Sec. 75. The cost of any improvement contemplated in this  
2 act and for which assessments may be made, shall only include the  
3 cost of printing and publishing all notices required to be pub-  
4 lished, and cost of construction.

Sec. 76. In setting forth the lots and lands abutting upon  
2 the improvement it shall be sufficient to describe them as the lots  
3 and lands abounding and abutting upon said improvements, be-  
4 tween and including the termini of said improvement, or by the  
5 description by which they are described on the land books of the  
6 county in which said lots are situate; and this rule of description  
7 shall apply in all proceedings in which lots or lands are to be  
8 charged with special assessment.

Sec. 77. When work shall have been completed on any  
2 avenue, street, road or alley or part thereof, as provided in section  
3 sixty or section sixty-seven, or the construction of any sewer or  
4 other work shall have been completed on any avenue, street, road  
5 or alley, or part thereof, or elsewhere, as provided in section  
6 seventy-one, and said assessments there against shall have been cal-  
7 culated as provided in this act, the board of commissioners shall  
8 give notice, by publication at least once a week for two successive  
9 weeks in two newspapers of opposite politics, published in said  
10 city, or in one newspaper if two such papers be not published in

11 said city, that an assessment under this act is about to be made  
12 against the property so assessed and the owners thereof, mention-  
13 ing the kind of work and the location thereof; and the owners of  
14 said property shall have a right to appear before said board,  
15 either in person or by attorney or agent, at any regular or special  
16 meeting called for that purpose within two weeks of the first  
17 publication thereof, and move the board to correct any apportion-  
18 ment of the assessment excessive or improperly made; and the  
19 board shall have the power to make any such corrections before it  
20 enters the same, as corrected, upon the records. If the publica-  
21 tion in the newspapers aforesaid cannot be had at reasonable rates,  
22 the notice may be given in some other manner designated of record  
23 by the board. The fact that said assessments shall have been  
24 entered of record, as provided by this act, shall be prima facie  
25 proof that the notice mentioned herein was given as prescribed in  
26 this section.

Sec. 78. For the purpose of making examinations of per-  
2 sons for officers or positions in the police and fire departments  
3 (excluding the chiefs thereof) and prescribing rules for their  
4 conduct, seven members of the citizens board, appointed by the  
5 president thereof, one from each ward of the city, which shall be  
6 chosen from opposite political parties when possible, shall act  
7 and be known as the "Civil Service Board". The president of the  
8 citizens board shall be the presiding officer of said board, a major-  
9 ity of which shall constitute a quorum for business, but shall  
10 have no part in the deliberation of the said board, except in case  
11 of tie, and the city clerk shall be ex-officio clerk of the said  
12 board. The civil service board shall adopt rules for its own  
13 government, and cause the minutes of its meetings to be recorded  
14 in a book provided for that purpose, which shall be kept by the  
15 city clerk at his office, and open to public inspection. The civil  
16 service board shall meet at least once a year, and oftener if it  
17 deems it necessary, or if called by the presiding officer, after  
18 ten days notice to the public published in two daily newspapers  
19 of opposite politics giving the time and place of meetings, hold  
20 examinations for the purpose of determining the fitness and quali-  
21 fications of applicants for positions in the police department and  
22 the fire department, which examination shall fairly test the fit-  
23 ness of the persons examined to discharge the duties of the posi-  
24 tion to which they seek appointment, and such examinations and  
25 declarations of the result thereof shall be made with the aim to

26 secure and maintain an honest and efficient police force and fire  
27 department. Said board shall at once after each of such exami-  
28 nations place to record in the journal of the civil service board the  
29 result of such examination, giving the names of applicants and  
30 positions sought by them and their respective percentages based  
31 on one hundred. In making such examinations the size, health,  
32 physical appearance, habits and moral surroundings shall be taken  
33 into consideration and the result of such examination shall be  
34 by the board certified to the commissioners and the said commis-  
35 sioners in their appointments shall elect their appointees from the  
36 list so certified. Civil service examinations and appointments  
37 shall apply to all policemen and firemen, except the chiefs of each  
38 department.

Sec. 79. All appointive officers shall hold their positions  
2 at the pleasure of the board of commissioners, except those ap-  
3 pointed under the civil service rules, and they may be removed  
4 for cause by the board of commissioners, and the members of  
5 the police and fire department under civil service rules shall  
6 take no part in elections except to vote, and any violation of this  
7 provision by members of either department shall be deemed mis-  
8 conduct and shall render such person or persons subject to dis-  
9 missal by the board of commissioners after trial and conviction  
10 of such person or persons therefor, as heretofore provided for in  
11 this act.

Sec. 80. In making appointments to the police department  
2 and the fire department, whether original, or to fill vacancies  
3 therein from time to time, the board of commissioners or mayor  
4 shall elect from the applicants for said respective positions those  
5 who, under said civil service examinations, received an average  
6 grade of sixty or more, giving preference to the applicant re-  
7 ceiving the highest grade and whose said grade certificate is the  
8 oldest.

9 When the list of names of applicants, who are eligible as  
10 prescribed in this section, shall have been exhausted, then the  
11 board of commissioners may make said appointments from the  
12 list of persons who may apply therefor, disregarding, if they  
13 choose, those applicants who stood civil service examination and  
14 received thereon a grade below sixty.

Sec. 81. All persons appointed to a position in the police  
2 department and fire department under this act (except the chief  
3 of police and the chief of fire department) shall hold their offices

4 or positions during good behavior. The board of commissioners  
5 shall hear and determine all charges against any officer or employee  
6 of said city after ten days' notice to the accused of the charges  
7 preferred against him, and the time and place of hearing on  
8 such charges, and an opportunity to the accused to be heard at such  
9 meeting in his defense. After thus hearing such charges the  
10 board of commissioners, by a majority vote of the members  
11 elected, may sustain the same and dismiss said accused from the  
12 service of the city. The mayor, pending the trial on any such  
13 charges, may suspend the accused officer or employee without  
14 pay, and if he shall finally be dismissed from the service he shall  
15 receive no pay, but if the charges against such officer or employee  
16 are not sustained, he shall be paid the salary during such period  
17 of suspension.

Sec. 82. The board of commissioners may adopt, by ordinance, a code of laws and ordinances, which when adopted shall be  
2 printed in book form, or it may be adopted as a whole after it is  
3 printed, and said code shall be the law and ordinances of said  
4 city, and shall be received as such in all the courts of this state,  
5 and the laws, ordinances, franchises, and rules when printed  
6 therein shall be *prima facie* proof of their correctness.

#### *Serving Notice.*

Sec. 83. Whenever any notice is required to be given, or  
2 any summons, warrant or other process is required to be served  
3 or otherwise executed, under the provisions of this act, it shall  
4 be sufficient if such notice, summons, warrant, or other process  
5 be executed by an officer of the police department of said city in  
6 the same way or manner in which the laws of the state prescribe  
7 for executing summons and subpoenas by the state officers, unless  
8 otherwise provided by this act.

Sec. 84. The mayor and members of the board of commissioners and members of the citizens board as now constituted, and  
2 all the officers of the city of Huntington, shall continue in their  
3 respective offices until their successors have been elected and  
4 qualified as provided in this act, and shall exercise their rights,  
5 powers and duties in the city of Huntington in the same manner  
6 and to the same effect as if this act had not been passed, and shall  
7 continue in their said office and perform such duties as are required  
8 of them under this charter until their successors have been  
9



10 elected and qualified, or appointed and qualified, under the pro-  
11 visions of this act, and all the ordinances, laws and resolutions  
12 now in force shall remain in force except such as are in conflict  
13 with this act.

14 That on or before the first day of August, one thousand nine  
15 hundred and nineteen, there shall be a re-organization of the police  
16 force of the city of Huntington as now constituted, and the power  
17 is hereby vested in the mayor and the board of commissioners of  
18 the said city of Huntington to consider the present appointment  
19 of the chief of police and any member of the said police force of  
20 said city at an end on or before the said date aforesaid, and their  
21 respective offices or positions vacant, and to be filled in accord-  
22 ance with the provisions of this act.

Sec. 85. The city clerk, except as may be otherwise pre-  
2 scribed by the board of commissioners, shall be the custodian of  
3 all the records and papers pertaining to the city of Huntington,  
4 and the citizens board, and said records and papers shall be kept  
5 by him at his office open to public inspection.

Sec. 86. Each political party shall at the general elections  
2 held under this charter elect a political committee consisting of  
3 one member from each ward; said committee shall elect a chair-  
4 man and secretary at large, and the chairman and secretary of  
5 said committee shall be members of the committee and entitled  
6 to vote, and shall continue in office until their successors are  
7 elected. The said committee shall perform all the duties re-  
8 quired by the provisions of this act and the general laws of the  
9 state of West Virginia relating to elections.

Sec. 87. All other acts and parts of acts coming within the  
2 purview of this act, and inconsistent herewith, and not included  
3 in the provisions of this act, are hereby repealed.

[Sec. 88. This act shall be in effect from date of passage.]

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## House Bill No. 94

AN ACT to create the municipal corporation of the "City of Mont-  
gomery," in the county of Fayette, to grant a charter thereto,  
and to annul the charter of the "Town of Montgomery."

*Be it enacted by the Legislature of West Virginia:*

## ARTICLE I.

### *The City of Montgomery.*

Section 1. That the inhabitants of so much of Fayette  
2 county as are within the boundaries prescribed by article two of  
3 this act, and their successors, shall constitute, be and remain a  
4 municipal corporation by the name of "the city of Montgomery."

## ARTICLE II.

### *Corporate Limits.*

Sec. 2. The corporate limits of the city of Montgomery shall  
2 be as follows: Beginning at a stake at low water mark of the  
3 Great Kanawha river at the mouth of Ellwood branch, and down  
4 said river north forty-five degrees fifteen minutes west two hun-  
5 dred and twenty-five feet; north fifty-seven degrees forty-five min-  
6 utes west four hundred and fifty feet; north sixty-eight degrees  
7 five minutes west four hundred and fifteen feet; north sixty-eight  
8 degrees thirty minutes west six hundred and fifty feet; north forty-  
9 six degrees fifteen minutes west one thousand and thirty-five feet;  
10 north fifty-one degrees west three hundred and eighty-seven feet;  
11 north eighty-three degrees thirty minutes west three hundred and  
12 eighty-five feet; south eighty-seven degrees thirty minutes west  
13 two hundred and forty-four feet; south seventy-nine degrees five  
14 minutes west two hundred and ninety-two feet; due west four  
15 hundred feet; south eight-three degrees west three hundred and  
16 sixty feet; south sixty-nine degrees thirty minutes west nine hun-  
17 dred feet to a stake, said stake south twenty-nine degrees west  
18 twenty-eight feet from a large sycamore, south five degrees forty-  
19 five minutes east one thousand four hundred and twenty-five feet  
20 to a stake; north eighty-eight degrees east three thousand one  
21 hundred and thirty-five feet, south sixty-one degrees fifteen min-  
22 utes east one thousand seven hundred and eighty feet; north forty-  
23 five degrees east five hundred and ninety-five feet to a stake at the  
24 edge of the Kanawha river and down same north twenty-five de-  
25 grees thirty minutes west four hundred and twenty-five feet to the  
26 beginning, containing one hundred and sixty-one acres.

## ARTICLE III.

*Municipal Authorities.*

Sec. 3. The municipal authorities of the city of Montgomery shall be the mayor, recorder and five councilmen, who shall constitute the council.

## ARTICLE IV.

*Officers.*

Sec. 4. In addition to the municipal authorities mentioned in article three of this act, the said city of Montgomery shall have a treasurer who may be sergeant, and auditor who may be recorder, chief of police, building inspector, who may be one of the council, a police judge, who shall be the mayor, and council may appoint a health commissioner, city attorney and such other officers and agents as the council may from time to time create or employ.

## ARTICLE V.

*Corporate Powers.*

Sec. 5. All of the corporate powers of said city shall be exercised by the said council or under its authority, except as otherwise provided herein.

Sec. 6. The mayor and councilmen, when elected and qualified as hereinafter provided, shall have possession and exercise corporate powers as a body politic by the name of "the city of Montgomery," and shall have perpetual succession and a common seal, and by the name may sue and be sued, plead and be impleaded, and may purchase and hold or sell real estate and personal property necessary to enable them to discharge its corporate duties needful or convenient for the good order, government and welfare of said corporation.

Sec. 7. The municipal authorities of said city, acting under the powers and in the manner herein specified, shall have and are hereby granted the power to have said city re-surveyed; to open, vacate, broaden, widen and repair streets and alleys, to curb and pave streets, sidewalks and gutters for public use, and to alter, improve, repair and light the same; to construct and maintain public sewers and laterals, and shall in all cases have power to assess upon and collect from the property benefited thereby

9 such part of the expense thereof as shall be fixed by ordinance,  
10 except as hereinafter provided; to have control of all streets and  
11 avenues, roads and alleys for public use in said city, and to have  
12 the same kept in good order, free from obstruction on or over  
13 them; to have the right to control all bridges within said city  
14 and traffic passing over them; to regulate and determine the  
15 width of streets, sidewalks, roads and alleys; to order and direct  
16 the curbing and paving of sidewalks and footways for public use in  
17 said city, to be done and kept in good order by the owners of  
18 adjacent property; to control the construction and repairing of all  
19 houses, bridges, culverts and sewers, and to prescribe and enforce  
20 all regulations affecting the erecting, repairing or removal of all  
21 buildings and structures, and to require permits to be obtained  
22 for such buildings, plans and specifications thereof to be first sub-  
23 mitted to the building inspector, and to prescribe and enforce  
24 regulations controlling the erection of such buildings, and to se-  
25 cure the safety and health of the public; to control the opening  
26 and construction of ditches, drains, sewers, cesspools and gutters,  
27 to deepen, widen and clear the same of stagnant water and filth,  
28 and to determine at whose expense the same shall be done; to  
29 build and maintain station houses, police stations and police courts,  
30 and to regulate the management thereof; to purchase, lay off,  
31 appropriate and control public roads, square and parks, either  
32 within or without the city limits as hereinafter defined, and when  
33 the council determines that any real estate is necessary to be ac-  
34 quired by the said city for any such purpose, the power of eminent  
35 domain is hereby conferred upon said city, and it shall have the  
36 right to institute condemnation proceedings against the owner  
37 thereof in the same manner and to the same extent and under the  
38 same conditions as such power is conferred upon public service  
39 corporations by chapter forty-eight of the code of West Virginia of  
40 the edition of one thousand nine hundred and six; to provide, con-  
41 tract for and take care of all public buildings and structures being  
42 proper for the use of said city; to provide for and regulate the  
43 building of all houses or other structures, and to determine the dis-  
44 tance they shall be built from the street or alley; to cause the re-  
45 moval of unsafe walls or buildings; to compel owners of property  
46 to fence in or wall their property for the protection of the public  
47 safety; to prevent the injury and annoyance to the business of in-  
48 dividuals from anything dangerous, offensive or unwholesome; to  
49 abate or cause to be abated all nuisances; to regulate the keeping of

50 gun powder and all other combustibles; to provide and maintain  
51 proper places for the burial of the dead; to regulate interment  
52 therein upon such terms and conditions as to price and otherwise  
53 as may be determined; to provide for shade and ornamental trees  
54 and the protection or removal of same; to provide for the draining  
55 of lots by proper drains and ditches; to make proper regulation  
56 regarding danger and damage from fire; to provide for the poor of  
57 the city; to organize and maintain fire companies and provide the  
58 necessary apparatus; to levy taxes on persons, property and li-  
59 censes; to provide revenue for the city and appropriate the same  
60 to its expenses; to provide for the valuation of property as often as  
61 it may be deemed proper and for the assessment of taxable persons  
62 and property; to adopt rules for the transaction of business and for  
63 the government and welfare of this corporate body; to promote the  
64 general welfare of the city and protect the person and property of  
65 citizens therein; to adopt rules for the transaction of business and  
66 for the government and regulation of its corporate body; to appoint  
67 such officers as they may deem proper and require and take from  
68 them bond with such security and in such penalty as may be de-  
69 termined, conditions for the faithful discharge of their duty; to  
69-a regulate and provide for the weighing of produce and other ar-  
70 ticles sold in said city; to regulate the transportation thereof  
71 through the streets; to establish and regulate markets, to prescribe  
72 the time for holding the same and what shall be sold only in such  
73 market, and to acquire and hold property for market purposes if  
74 deemed proper; to regulate the placing of signs, bill boards, post-  
75 ers and advertising and other obstructions in, or over the streets,  
76 alleys and sidewalks of said city, to preserve and protect the peace,  
77 order and health of the city and its inhabitants; to appoint and fix  
78 places for holding city elections; to erect, own, lease, regulate,  
79 authorize or prohibit the erection of gas works, electric light works  
80 in or near the city, and to operate the same and sell the products  
81 thereof and do all things necessary and incidental to the conduct  
82 of such business; to provide for and preserve the purity of the  
83 water and health of the city; to prescribe and enforce ordinances  
84 for the purpose of protecting the health, decency, morality and  
85 order of the city and its inhabitants, and to punish violations of  
86 such ordinances, even if the offenses under and against such or-  
87 dinances shall also constitute offenses under the laws of the state  
88 of West Virginia or the common laws; to have and exercise all the  
89 rights, privileges and powers provided by chapter forty-seven of

90 the code of West Virginia of the edition of one thousand nine hun-  
91 dred and six, and amendments thereof not inconsistent with this  
92 act, and shall retain, keep and succeed to all rights, privileges,  
93 property, interest, claims and demands heretofore acquired by,  
94 vested in or transferred to the city of Montgomery, or heretofore to  
95 the corporation of Montgomery.

Sec. 8. To carry into effect these enumerated powers and all  
2 other powers conferred upon said city, expressly or by implication  
3 in this and other acts of the legislature, the municipal authori-  
4 ties of said city shall have power in the manner heretofore pre-  
5 scribed to adopt and enforce all needful orders, by-laws and  
6 ordinances not contrary to the laws and constitution of this  
7 state, and to prescribe, impose and enforce reasonable fines and  
8 penalties, including imprisonment.

## ARTICLE VI.

### *Qualification of Voters.*

Sec. 9. Every person who may have resided within the terri-  
2 tory of said city for six months next preceding an election held  
3 therein, and who is a qualified voter under the laws and constitu-  
4 tion of this state, and none others, shall be entitled to vote at  
5 any election held in said city. But no person shall be deemed a  
6 resident of said city by reason of being a student of any school  
7 or college therein for any temporary purpose.

## ARTICLE VII.

### *Elections.*

Sec. 10. The council shall by ordinance provide such regu-  
2 lations for the registration of votes as the state laws may require.

Sec. 11. The first election under this act shall be held on  
2 the first Thursday in January in the year one thousand nine hun-  
3 dred and twenty; and the second election on the first Thursday  
4 in January in the year one thousand nine hundred and twenty-two,  
5 and on the same day every two years thereafter. Such first elec-  
6 tion and all subsequent elections shall be held in such manner as  
7 is, or shall be prescribed by law for the holding of state elections  
8 and the council shall, for the first election held under this act,  
9 and at least ten days before said first election under this act,  
10 designate the voting places and the names of the commissioners,  
11 clerks and challengers to hold the said first election. Special

12 elections for any purpose must be authorized by the council and  
13 called by the mayor. Notices of all special elections must be  
14 given by publication in at least one newspaper of general circula-  
15 tion published in the city of Montgomery, at least thirty days be-  
16 fore the date fixed for all such special elections, and by posting  
17 notices in such manner as the council may deem necessary. The  
18 council shall sit on the seventh day, Sundays excepted, after every  
19 election as a board of canvassers, each member of the council hav-  
20 ing one vote; and as such board of canvassers they shall canvass,  
21 ascertain, publish and declare the result of any election held; and  
22 the circuit court of Fayette county shall have power to control  
23 proceedings of said board of canvassers by mandamus and prohibi-  
24 tion. The said board shall keep in a separate book, marked for  
25 that purpose, a record of the proceedings, and shall take down and  
26 record any evidence, motion, or paper filed, or offered by any candi-  
27 date, which book and record shall be open to the public and shall  
28 be kept in the custody of the recorder.

## ARTICLE VIII.

### *Election of Officers.*

Sec. 12. On the first Thursday in January, one thousand  
2 nine hundred and twenty, and on the same day every two years  
3 thereafter, there shall be elected by the qualified voters of the city,  
4 a mayor, who shall hold office from the first day of February suc-  
5 ceeding in the year in which he is elected for a term of two years  
6 and until his successor is elected and qualified.

Sec. 13. No person shall be eligible to the office of mayor  
2 except he be assessed with and own at least five hundred dollars  
3 worth of real or personal property, and is a citizen entitled to vote  
4 at the election at which he is elected, and no person shall be elected  
5 to such office or retain or hold the same, who shall be or become  
6 an officer or employee of any person, firm or corporation holding  
7 any franchise or contract under or with said city.

Sec. 14. On the first Thursday in January, one thousand  
2 nine hundred and twenty there shall be elected by the qualified  
3 voters of the city five councilmen, to hold office from the first day  
4 of February, one thousand nine hundred and twenty until the  
5 first day of February, one thousand nine hundred and twenty-two,  
6 or until their successors are elected and qualified. Beginning with  
7 the first election held under this act, which shall be on the

8 first Thursday in January, one thousand nine hundred and twenty  
9 and every two years thereafter there shall be elected a recorder by  
10 the qualified voters of the city, to hold office for the term of two  
11 years, and so on every two years thereafter. The officers of the  
12 city elected under the old charter and at the electeion held in the  
13 year one thousand nine hundred and nineteen shall hold over un-  
14 til their successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of council-  
2 man or recorder except he be assessed with and own at least five  
3 hundred dollars worth of real or personal property, and be a citi-  
4 zen entitled to vote at the election at which he is elected.

## ARTICLE IX.

### *Oath of Mayor and Other Officers.*

Sec. 16. The mayor, before taking his seat or performing any  
2 of the duties of said office, shall take and subscribe an oath or af-  
3 firmation that he possesses the qualifications prescribed by this  
4 act to hold such office, and is not subject to any of the disqualifi-  
5 cations prescribed therein, and that he will support the constitu-  
6 tion of the United States and the constitution of this state, and  
7 honestly discharge the duties of his office to the best of his skill  
8 and judgment which oath shall be written out and signed and  
9 filed and preserved among the records and books of the city.

Sec. 17. The recorder, councilmen and all other officers  
2 elected or appointed under this act shall take and subscribe an  
3 oath or affirmation in the time, manner, form and effect, pre-  
4 scribed for the mayor.

## ARTICLE X.

### *Vacancies Occurring.*

Sec. 18. If the vacancy should occur in the office of mayor,  
2 the council shall, as soon as practicable, fill the vacancy by the  
3 appointment of some qualified person. If any vacancy occurs in  
4 any other office. whether elective or appointive, the council shall  
5 fill the same by the appointment of some qualified person subject  
6 to any regulations as required for the original appointment or  
7 election.

Sec. 19. All persons appointed to fill vacancies in the elective  
2 offices shall hold office until the next city election, and all vacan-  
3 cies in appointive offices shall be filled for the unexpired term.



Sec. 20. The council shall have and is hereby granted the  
2 power and authority to remove from office any officer, whether  
3 elective or appointive, for cause or upon written charges preferred  
4 by any responsible citizen to the council; but to remove from office  
5 under this provision, four-fifths of the members of the council  
6 must be present and four-fifths must concur in such removal, and  
7 the officer against whom the charges are preferred shall be served  
8 with a reasonable notice of the same, together with the time of  
9 hearing upon such charges, together with a copy of such charges,  
10 and shall have the right to be represented before the council in  
11 person and by attorney, and the right to require all witnesses to  
12 be sworn and testify under oath before the council and to have the  
13 testimony taken down.

#### ARTICLE XI.

##### *Officers May Perform Other Duties.*

Sec. 21. Any member of the council, the mayor, recorder,  
2 treasurer, or any other elective or appointive office shall, during  
3 the time for which he was elected or appointed, be eligible for ap-  
4 pointment to any office under the city, provided, such employment  
5 is authorized by the council, by resolution for such appointment;  
6 but in no case shall the time of service be for a longer period than  
7 said council is selected to serve under this act.

#### ARTICLE XII.

##### *To Keep a Journal of Proceedings.*

Sec. 22. The council shall keep a journal of all its proceed-  
2 ings, which shall, at all times, be open to the inspection of the tax-  
3 payers of the city, and be a public record, and the ayes and noes of  
4 the members shall be taken on any question, at the request of any  
5 member, and shall be taken down and entered on the journal.

#### ARTICLE XIII.

##### *Meeting of Council.*

Sec. 23. The council shall hold regular meetings on the first  
2 Tuesday of each month of the year, and such special meetings as  
3 the business to be transacted may require, at such time, place or  
4 places in the city as the council shall, from time to time, ordain  
5 or appoint; and the council shall have the power by proper ordi-

6 nance or resolution, entered of record, to vest in any officer of the  
7 city or any member or number of members of their body, author-  
8 ity to call such special meetings and in like manner to prescribe  
9 the mode in and by which said meetings shall be called. All ques-  
10 tions put, except as to such matters, as herein otherwise provided,  
11 shall be decided by a majority of all the members elected. No  
12 business shall be transacted at any special meeting of the council  
13 unless specifically mentioned in the call for such meeting.

#### ARTICLE XIV.

##### *Quorum.*

Sec. 24. A majority of the whole number of members elected  
2 or appointed to the council shall constitute a quorum to transact  
3 business, but a smaller number may adjourn from time to time and  
4 may compel attendance of absent members in such manner and un-  
5 der such penalties as either body may by rules provide.

#### ARTICLE XV.

##### *Salaries.*

Sec. 25. The mayor, recorder, regular and other officers, em-  
2 ployes and appointees, shall receive for their official services such  
3 salaries as the council shall, from time to time, by ordinance fix  
4 and establish; but the salaries of such officers shall not be in-  
5 creased or diminished during the term for which such officers  
6 were elected or appointed; *provided*, that the salaries of all  
7 officers elected or appointed for any term shall be fixed not later  
8 than thirty days preceding any election.

#### ARTICLE XVI.

##### *Appointive Officers.*

Sec. 26. The council shall by a majority vote of its members  
2 fill all appointive offices under the city administration.

#### ARTICLE XVII.

##### *Duties of the Mayor.*

Sec. 27. The mayor shall be chief executive officer of the city  
2 and shall preside at all meetings of the council and shall have a  
3 vote in case of tie; he shall have charge and control of the po-

lice except as herein otherwise provided ; he shall see that the laws and ordinances of the city are enforced ; that the peace and good order of the city are preserved and that persons and property therein are protected, and to this end he may cause the arrest and detention of riotous and disorderly persons, and shall perform such other duties and services as the council may ordain in addition to the duties prescribed in this act and not inconsistent herewith. The recorder, except as herein otherwise provided, shall perform the duties of the mayor whenever and so long as the mayor is from any cause not able to perform his official duties, and he shall, in the absence of the mayor, perform any and all the duties of the mayor except he shall not preside over the council. In the absence of the mayor at a meeting of the council, the council shall select one of its own members to preside over its meetings, who shall have a vote as a councilman. If the mayor and recorder are both absent from the city, or otherwise disabled from performing the duties of the mayor, the council may elect a mayor *pro tempore*. The mayor shall have the power at any time to appoint special policemen, who shall be sworn in without confirmation of the council.

## ARTICLE XVIII.

### *Duties of the Recorder.*

Sec. 28. It shall be the duty of the recorder to keep a properly indexed journal of the proceedings of the council and board of health, and have charge of and preserve the records of the city ; he shall, whenever required by the mayor, attend the police court and attend to all the duties as clerk of the police court of the city. In the absence of the mayor or police judge, he shall exercise the functions of police judge ; he shall perform all other duties required of him by order or by ordinance of the council ; as recorder he shall receive compensation for his service to be fixed by the council, which shall not be increased or diminished during his term of office.

### *Duties of the Auditor.*

Sec. 29. The auditor shall be the city accountant and auditing officer of the city and it shall be his duty to see that the accounts of said city are kept in a detailed and systematic manner, under the proper classification so as to show the bonded and other

5 indebtedness of said city, and the amounts and claims due the  
6 same, as well from taxes, levies and assessments as from other  
7 sources.

Sec. 30. In addition to the other duties of the auditor, it  
2 shall be his duty, on or before, the first day of August in each year  
3 to make a copy from the real and personal property books of prop-  
4 erty shown to be liable to taxation within the limits of the city of  
5 Montgomery, and to certify such copies under his hand as a true  
6 and correct copy thereof, and to deliver the same to the council and  
7 to assist the council in preparing the annual estimate of expenses  
8 to be certified to the council as a basis for the annual levy. After  
9 such levy is made in each year, it shall be the duty of the auditor to  
10 extend said levy upon said real estate and personal property books  
11 for said city and to prepare proper tax tickets therefrom against  
12 all owners of real estate and personal property subject to tax-  
13 ation in said city. He shall turn the said tax bills over to the treas-  
14 urer or sergeant, who shall collect said taxes when due and pay-  
15 able, and the treasurer shall certify to the payment of same as  
16 made. In addition to the above duties of the auditor, he shall per-  
17 form such other duties as the council shall prescribe.

## ARTICLE XX.

### *Duties of City Attorney.*

Sec. 31. The council may appoint a city attorney, by a ma-  
2 jority vote of its members, who shall be the legal adviser of the  
3 city and all its officers in all matters arising and in which legal pro-  
4 ceedings may be taken; he shall prosecute all the suits, actions and  
5 proceedings instituted on behalf of said city and shall defend all  
6 suits and actions against said city, and when requested to do so in  
7 writing, shall give his written opinion to the mayor, council or any  
8 committee thereof upon such questions as may be referred to him  
9 affecting the city's interest; he shall perform such other duties  
10 as may be required. It shall be his duty to attend all sessions of  
11 the police court whenever requested by the mayor or police judge  
12 prosecute all trials therein and all appeals that are taken from such  
13 courts, and for his services shall receive such compensation as may  
14 be agreed on between him and the city council.

## ARTICLE XXI.

### *Duties of Police Judge.*

Sec. 32. The mayor or police judge shall be *ex-officio* a jus-

2 tice and conservator of the peace within the city and he shall, with-  
3 in the same, have, possess and exercise all the powers and perform  
4 all the duties vested by law in a justice of the peace, except that he  
5 shall have no jurisdiction in civil causes of action arising out of the  
6 corporate limits of the city. He shall have the same power to issue  
7 attachments in civil actions as a justice of his county has, though  
8 the cause of action arose out of the city limits, but in such case he  
9 shall have no power to try the same but must have such attachment  
10 returnable and heard before some justice of the county. Any war-  
11 rant or other process issued by him may be executed within the  
12 same territorial limits as that of a justice of the county. He shall  
13 have power to issue executions for all fines, costs and penalties im-  
14 posed by him, or he may require the immediate payment thereof,  
15 and in default of such payment he may commit the party in default  
16 to the jail of the city, until the fine, penalty or costs shall be paid,  
17 but the term of imprisonment in such cases shall not exceed sixty  
18 days. But such mayor or police judge shall not receive any money  
19 belonging to the state, or any individual, unless he shall give bond  
20 and security as required of a justice of the peace under the laws  
21 of the state of West Virginia; and all provisions under the laws of  
22 the state of West Virginia relating to moneys received by justices  
23 shall apply as to like moneys received by the mayor or police judge.

## ARTICLE XXII.

### *Ordinance—General Provisions.*

Sec. 33. The style of ordinances of the city shall be "Be it  
2 enacted and ordained by the council of the city of Montgomery,"  
3 but the ordinances now in force shall remain in effect until amend-  
4 ed or repealed, except where they are in conflict or inconsistent  
5 with this act.

Sec. 34. All ordinances shall be presented in writing and  
2 no ordinance shall be so amended in its passage as to change the  
3 general purpose. No ordinance shall be considered for final  
4 passage at the meeting at which it is introduced unless the same  
5 shall have been reported on by a committee, but reference to a  
6 committee may be dispensed with by an affirmative vote of three-  
7 fifths of the council as elected. No ordinance shall contain more  
8 than one subject, which shall be clearly expressed in its title; nor  
9 shall any ordinance be passed by the council unless a majority of all  
10 the members elected to the council shall concur therein by ayes and  
11 nays when the question is put upon its passage.

Sec. 35. All ordinances passed by the council shall be spread upon the minutes and at the next regular meeting such ordinances shall be read in open council and the mayor shall sign said minutes when found correct or corrected, in the presence of the council. The council shall provide a well-bound book, in which shall be copied all the ordinances in the order in which they are passed, which ordinances so copied shall be compared with the originals by the mayor and shall be signed by him when found correct. Such book shall be indexed so as to show in brief form the substance of the ordinances. All copies thereof certified as hereinafter provided, shall be received by all the courts and justices in this state as evidence; but the council may adopt by ordinance, properly designing and describing it, a code of laws and ordinances, which when adopted, shall be published in a newspaper of general circulation in said city, or posted, and printed in book form, or it may be adopted as a whole after it is printed, and the said code shall be and become the laws and ordinances of the said city, and shall be received as such by all the courts in this state, and the printed volumes published under order of the council shall be so received as evidence of what is printed therein till errors or omissions be affirmatively shown therein.

### ARTICLE XXIII.

#### *Franchises.*

Sec. 36. All franchises granting the right of occupancy of any portion of the streets of the city for work of public utility and service shall be granted by the council, but no such franchise shall hereafter be granted except under the following restrictions and conditions:

No franchise shall be granted, except at the time of granting it bond be made to the city providing that the grantee shall indemnify the city against all damages caused by construction, maintenance or operation of such works. All reasonable additional provisions and conditions may be made for the protection of the public, necessary damage or inconvenience by reason of the construction, maintenance or operation thereof.

No grant of a franchise for the extension of, or an addition to, any line of work or public service through, over or under any additional street or territory of the city shall be made for a period extending beyond the time limit for the expiration of the fran-

17 chise, if the principal work is one granted before this act goes  
18 into effect and not limited as to time. Any franchise granted  
19 for an extension or addition thereto shall nevertheless be made,  
20 subject to the provisions hereof, including the time limit of not  
21 exceeding fifty years.

22 The council shall, in all franchises hereafter granted, em-  
23 body therein a plainly expressed condition, when the franchise  
24 is to be for work useful chiefly to the citizens of the city, that at  
25 the expiration of the franchise the grantee shall, if required by  
26 the council sell to the city the plant at what it is then worth.

27 If the city or the owner of the plant cannot agree upon its  
28 value, then its value shall be ascertained by an impartial arbi-  
29 tration, one arbitrator to be selected by the city, one by such  
30 owner of the plant, these two to select a third, and the decision  
31 of any two to be binding upon both parties.

#### ARTICLE XXIV.

##### *Estimate of Expenses and Levy.*

Sec. 37. A finance committee shall be appointed from the  
2 council members, by the mayor, and said finance committee shall,  
3 on or before the first day of August in each year, prepare and  
4 submit to the council an estimate of the amount of money neces-  
5 sary and advisable to be expended by the city for the current year  
6 next ensuing and to be provided for by the tax levy as herein pro-  
7 vided for such current year, in which estimate the finance com-  
8 mittee shall ascertain and present a detailed and itemized account  
9 or estimate of the money necessary to pay interest on the bonded  
10 indebtedness of the city, the amount required for the several sink-  
11 ing funds, for the reduction of the principals thereof, the amount  
12 to be expended severally for the streets, alleys, curbing, water  
13 works, police department, fire department, street paving, sewers,  
14 salaries, parks, real and personal property, contingent expenses  
15 and other expenses, together with an itemized statement of the  
16 estimated receipts, other than that to be derived from the annual  
17 levy, and after receiving such estimates, and before making the  
18 levy the council shall apportion the rate thereof, (including esti-  
19 mated receipts for licenses and all other sources), among the sev-  
20 eral funds to ascertain and provide for, which said apportionment  
21 when adopted, shall be spread upon the records of the council.

22 Upon the estimate of such expense, the council shall there-

23 upon, by ordinance, lay a levy for the ensuing tax year of a sum not  
24 to exceed sixty cents, exclusive of any levy or levies for  
24-a bond purposes, on each one hundred dollars assessed valuation  
25 of all taxable property, real and personal, subject to taxation in  
26 said city, as well as a capitation tax not to exceed two dollars upon  
27 every male inhabitant of said city over the age of twenty-one years  
28 who is subject to a capitation tax under the laws of the state of  
29 West Virginia, and said council is authorized to levy to such max-  
30 imum of sixty cent on each one hundred dollars of valuation,  
31 notwithstanding any general laws now in force, or which may be  
32 enacted, restricting the powers of municipal corporations to levy  
33 taxes.

Sec. 38. Whenever anything, for which a state license is re-  
2 quired, is to be done within said city, the municipal authorities, as  
3 herein provided, may require a city license to be had for doing the  
4 same, and may, in any case, require from any person licensed a  
5 bond, with sureties, and in such penalty and with such conditions  
6 at it may deem proper, and the council may on notice revoke such  
7 license at any time, if the conditions of said bond be broken, or  
8 for good cause.

9 The municipal authorities may impose a license tax for the  
10 use of said city upon any business, trade, occupation or profession  
11 for which the state now requires or hereafter may require a license,  
12 but the tax upon such city license shall in no case exceed the license  
13 tax imposed by the state upon such business, trade, occupation or  
14 profession. The municipal authorities may prescribe, impose and  
15 enforce reasonable fines and imprisonment, under the order of the  
16 police judge of said city, or the person lawfully exercising his  
17 function, upon any person carrying or attempting to carry on any  
18 business for which the said license is required, without first ob-  
19 taining a city license therefor, and paying the city license tax  
20 assessed thereon. All licenses provided for in this section shall  
21 be paid to the sergeant or treasurer. For the purposes of enforcing  
22 the provisions of this section the city shall have police jurisdiction  
23 for two miles beyond the corporate limits thereof.

Sec. 39. The council shall have the power to pass and make  
2 all regulations and pass all ordinances necessary and proper con-  
3 cerning the granting and revoking of all licenses. The city shall  
4 have the power to prohibit by ordinance and to punish persons  
5 abusing animals; to restrain and punish vagrants, mendicants,  
6 beggars, tramps, prostitutes and drunken and disorderly persons



7 within the corporate limits; to provide for their arrest and manner  
8 of punishment; to prohibit and punish railroads bringing in paup-  
9 ers or persons or animals afflicted with dangerous diseases; to con-  
10 trol and suppress bawdy houses, houses of assignation and gambl-  
11 ing houses and to punish gaming; to prohibit slaughter houses with-  
12 in the prescribed limits and soap or glue factories of any kind;  
13 to restrain and prohibit the use of fire crackers, fireworks or other  
14 explosives, and all dangers or unseemly noises which tend to an-  
15 noy persons or frighten horses or other animals; to make regula-  
16 tions guarding against fire; to regulate the use of streets and al-  
17 leys for street cars, railroads, railroad engines, traction engines,  
18 automobiles, and cars of all sorts, and regulate the running and  
19 operation of the same within the city limits; to regulate and pre-  
20 vent injury, inconvenience or annoyance to the public; to prohibit  
21 cock fighting and dog and prize fighting; to regulate and con-  
22 trol the kind and manner of plumbing and electric wiring, etc.,  
23 for the safety and health of the public, to regulate, restrain and  
24 prohibit all animals and fowls running at large; to establish and  
25 regulate markets; to regulate signs and billboards, posters and  
26 advertisements on or over streets; to regulate the sale and use of  
27 cocaine, morphine, opium and poisonous drugs; to provide for  
28-31 purity of water, milk, meat, etc., sold in the city limits;  
32 to provide for inspection of dairies, slaughter houses and other  
33 places of like nature; to protect places of divine worship; to have  
34 abated and removed all nuisances; to regulate the construction of  
35 all water closets, privies, cess pools, pens, sinks, yards, stables  
36 and other places where offensive substances may accumulate; to  
37 regulate and prescribe punishment for all violations against the  
38 public peace and welfare.

## ARTICLE XXV.

### *Taxes—How Collected.*

Sec. 40. The city taxes annually levied by said council shall  
2 be collected as follows: Immediately after the annual levy for city  
3 taxes is laid, the auditor shall extend the same on the property  
4 books made out by him, including thereon, the proper capitation  
5 taxes. He shall make out proper tax tickets in the following man-  
6 ner, that is to say: there shall be a single ticket for the whole  
7 amount charged to any person, firm or corporation, and after the  
8 tickets have been examined and compared and found to be correct

9 by the council, they shall be turned over to the sergeant or treas-  
10 urer by the first day of October following the levy. The sergeant  
11 or treasurer shall receipt for the gross amount, said receipt to be  
12 returned and entered upon the records and the sergeant charged  
13 therewith. The sergeant shall then give notice by publication in  
14 a newspaper of general circulation in the city, and posting for at  
15 least ten days, stating that the tax tickets are in his hands for col-  
16 lection, the penalty for the non-payment thereof, and the time and  
17 place where the same may be paid; *provided, however, that a tax*  
18 *payer shall have the right to anticipate the payment of the whole or*  
19 *any part of the taxes as assessed. Immediately upon the payment*  
20 *of said taxes or any part thereof, the said amount shall be deposited*  
21 *by the sergeant or treasurer in one of the city depositories to the*  
22 *credit of the "City of Montgomery," and the sum so deposited shall*  
23 *be reported to the council at its first meeting after deposit is made.*  
24 All taxes shall be due and payable within thirty days after the  
25 expiration of the notice posted and published by the sergeant as  
26 hereinbefore set forth, and in case the same are not paid within  
27 said time, he may distrain and sell therefor, in like manner as the  
28 officer collecting the state taxes may distrain therefor, and he shall  
29 have in all other respects the same power to enforce the payment  
30 and collection thereof. On all tickets remaining uncollected in  
31 the hands of the sergeant fifty days after the date of the expira-  
32 tion of the notice posted and published by him, a penalty of five  
33 per cent. shall be added and collectable, together with six per  
34 cent. interest until paid.

35 The council may by ordinance allow a discount for prompt  
36 payment of taxes. The sergeant shall have the power to collect  
37 said taxes so placed in his hands together with the penalty and in-  
38 terest thereon, heretofore provided to be added thereto. The  
39 sergeant shall be charged with the gross amount of said tax tickets  
40 so delivered to him for collection, and no deductions therefrom  
41 shall be allowed unless on or before the first day of July of each  
42 year he makes out and returns to the council a delinquent list of  
43 taxes uncollected for year previous with his oath attached thereto,  
44 stating that such delinquent list is correct and just, that he has re-  
45 ceived no part of the taxes mentioned thereon and that he has used  
46 due diligence to find property to distress for said taxes and has found  
47 none, and that the same are uncollectable. Penalties and interest,  
48 provided for in this section, to be added to such taxes, shall not be  
49 deemed or considered any part of the limitation in this act here-

50 inbefore prescribed, restricting the annual city levy to sixty cents  
51 on each one hundred dollars valuation. The sergeant shall not  
52 take or collect anything but money and the legally issued and au-  
53 thorized drafts or vouchers of the city, for the payment of taxes.  
54 The sergeant shall perform such other duties as the council may  
55 require, and receive such compensation as shall be fixed by the  
56 council.

Sec. 41. All goods and chattels belonging to a person, firm,  
2 or corporation or estate, assessed with any city taxes, whether the  
3 same be a capitation tax, tax upon real or personal property or an  
4 assessment for paving or other improvements, shall be liable for  
5 said taxes and may be distrained therefor in whosoever possession  
6 they may be found, and the sergeant shall have the same power to  
7 collect said taxes or assessments from any persons owing debts to or  
8 having in his possession any estate belonging to a person assessed  
9 with any tax or assessment of any kind, that the sheriff has to col-  
10 lect state taxes or enforce the collection thereof.

Sec. 42. There shall be a lien upon all real estate within  
2 said city for the city taxes assessed thereon including such pen-  
3 alties and interest added thereto for non-payment thereof as are  
4 prescribed by this act, from the first day of January in which said  
5 taxes are assessed. Said liens may be enforced in any court of  
6 record in Fayette county by appropriate suit; *provided*, such suit  
7 be entered within five years from the time said liens attached as  
8 herein provided, and such suit may either be by and in the name  
9 of the city of Montgomery as plaintiff, or said city may intervene  
10 by petition in any suit pending to sell or enforce liens against  
11 real estate which is subject to such liens for said taxes. The liens  
12 herein created shall have priority over all other liens except those  
13 for taxes due the state and county.

Sec. 43. Said liens for city taxes and attendant penalties,  
2 as well as for improvement assessments, may also be enforced  
3 by the certifying of the same to the clerk of the county court of  
4 Fayette county for certification to the state auditor, and the same  
5 may be certified down by the state auditor and sold for taxes,  
6 interest and penalties and commissions thereon, in the same man-  
7 ner, at the same time, and by the same officer as real estate sold  
8 for taxes, interest, damages, costs and commissions due the state  
9 thereon, which officer shall account therefor on settlement with  
10 the council and pay the same over to the treasurer.

## ARTICLE XXVI.

*Money—How Appropriated.*

Sec. 44. No money shall be appropriated and no debts shall be contracted and no contracts authorized by the city, except by an ordinance passed by the council as specified herein, and no such ordinances shall be passed except where the funds to meet the same shall have first been provided by levy duly made in accordance with this act and its provisions. No contract shall be entered into involving or anticipating further levies, unless all the questions connected with the same shall have been first submitted to the people and shall have received three-fifths of all the votes cast at such election.

## ARTICLE XXVII.

*Sewers, Paving and Curbing.*

Sec. 45. The council shall have the power to establish the width of any sidewalk along any street, alley or public square or portion thereof, and any owner of ground fronting on such street, alley or public square shall, in such manner as the council shall reasonably prescribe, pave and curb the sidewalk adjacent to such property. In case of a failure or refusal of the owner to pave or curb the same, the council may cause the same to be properly curbed and paved by the city, and levy and collect from such owner the whole cost of such curbing and paving adjacent to such property, with a penalty of five per centum added thereto, together with six per centum interest until paid; and in like manner to require the owner of any property adjacent to any paved sidewalk heretofore or hereafter constructed, to keep the same in repair, and in default of doing so to cause the same to be repaired, and levy and collect the cost from said owner or owners with a penalty of five per centum added thereto together with six per centum interest per annum until paid. In all cases of such assessment, whether for the original or for the repairing of sidewalk, payment thereof, including penalties and interest, shall be made to the sergeant within sixty days after the completion of the work, who shall have the power to collect the same from the owner or owners of any such property by distress and sale, in the same manner in which taxes levied for the benefit of the city are authorized to be collected and, in addition, there shall be a lien

25 upon such real estate, which lien shall be enforced by appropriate  
26 suit in any court of record of Fayette county.

Sec. 46. Whenever the council may deem it expedient to  
2 cause any street or alley in said city, or portion thereof, to be paved  
3 in a permanent manner, it shall order the work done in the follow-  
4 ing manner and upon the following terms: the contract for such  
5 paving shall, after due advertising, in which the council shall  
6 reserve the right to reject any and all bids, be let, if let, to the  
7 lowest responsible bidder. The contractor shall look only to the  
8 city for the payment for the work and in no sense to the abutting  
9 land owner. The total cost of grading and paving any such street  
10 or alley (except when the streets are occupied by street car tracks,  
11 for the distance between the rails and for two additional feet out-  
12 side of each rail, which portion shall be borne and paid by the  
13 company owning and operating such railway and track) shall be  
14 borne by the owners of the land abutting upon said street, alley or  
15 portion thereof, subject to the following plans, that is to say:  
16 payment is to be made by all the land owners on either side of such  
17 portion of a street or block so paved, in such portion of the total  
18 cost, less the portion, if any, chargeable to such street railway  
19 company, as the frontage in feet of his land bears to the total  
20 frontage of all lands so abutting on such street, alley or portion  
21 thereof so paved as aforesaid. The cost of such paving chargeable  
22 to the abutting property is not to include any portion of the  
23 amount paid for paving of any squares at intersections of streets,  
24 which shall in all cases be borne and paid by the city. When the  
25 paving of any street or alley or portion thereof shall have been let  
26 to contract and the work done as hereinbefore provided, it shall be  
27 the duty of the city engineer to cause the several frontages abut-  
28 ting thereon to be measured, to calculate the assessment upon each  
29 and every land owner so abutting, and to certify the same to the  
30 council showing the proper amount to be determined as provided  
31 in the foregoing plan. It shall be the duty of the council to  
32 examine and compare such assessments, amounts and names so  
33 certified to it. Thereupon the council shall give notice by publi-  
34 cation for two successive weeks in some newspaper published in  
35 said city that an assessment, under this act, is about to be laid  
36 against abutting property for paving done on said streets or alleys,  
37 describing the location of such paving. Any owner or owners of  
38 abutting property shall have the right to appear before the said  
39 council within three weeks from the first publication thereof, and

40 move such council to correct any apportionment or assessment im-  
41 properly made; which corrections the said council shall have the  
42 power to make. If found to be correct, or when rectified, the coun-  
43 cil shall cause the same to be entered, together with the descrip-  
44 tion as to the location, frontage, depth and ownership of the land,  
45 so far as the same may be ascertained, upon its records, and to  
46 enter in its record that such owners and lots be assessed  
47 and chargeable with the amount so ascertained to  
48 be borne by them respectively. When so approved, cer-  
49 tified and entered of record, the same shall be and con-  
50 stitute an assessment against said owners and lots for such  
51 respective amounts. It shall be the duty of the council to  
52 immediately certify such assessment to the sergeant for collection  
53 as hereinbefore provided. A copy of such order shall be certified  
54 by order to the clerk of the county court of Fayette county, who  
55 shall be required to record and index the same in the proper deed  
56 book in the name of each person against whose property assess-  
57 ments appear therein. The amount so assessed against any land  
58 owner, as aforesaid, shall be paid in seven payments, as follows,  
59 that is to say: one-fourth of said amount shall be paid to the  
60 sergeant when said work is completed, certified and entered of  
61 record as aforesaid, and the other three-fourths shall be paid in  
62 equal semi-annual payments with six per cent interest thereon  
63 until paid, the first of which shall be due and payable six months  
64 from date first payment is due, and so on, every six months until  
65 the full amount of assessment, with penalties and interest is paid,  
66 the purpose being to require the payment regularly until the entire  
67 amount is paid. *Provided, however,* that the abutting land owner  
68 so liable for any costs of such paving shall have the right at any  
69 time after the same is certified as aforesaid to the sergeant for  
70 correction, to anticipate the payment of either installment. To  
71 each of said installments of assessments remaining unpaid in the  
72 sergeants hands at the time specified for such payment, a penalty  
73 of four per cent shall be added and the payment thereof enforced  
74 in all respects as hereinbefore provided for the collection of any  
75 other taxes due the city, and such shall be a lien upon the prop-  
76 erty liable therefor, the same as for other taxes, and the lien may  
77 be enforced in the same manner as provided for other taxes. The  
78 liens hereinbefore provided for shall have priority over all other  
79 liens except those due the state and county for taxes, and shall be  
80 on a parity with other taxes and assessments due the city. Upon

81 the payment of any assessment to the sergeant he shall deliver  
82 to the party paying the same a release of the lien therefor, which  
83 may be recorded in the office of the clerk of the county court as  
84 other releases for liens. Should such assessment not be in the  
85 hands of the sergeant, if the same shall have been shown to the  
86 satisfaction of the council to have been paid in full to any officer  
87 entitled to receive the same as designated by it, the council may  
88 direct the sergeant to execute a release of such liens, which release  
89 may in like manner be recorded.

### ARTICLE XXVIII.

#### *Sewers.*

Sec. 47. Whenever the council shall order the construction  
2 of any public sewer in said city the owners of the property abut-  
3 ting upon any street, in which said sewer shall be constructed,  
4 shall be charged with and liable for sewerage assessments as fol-  
5 lows: when said sewer is completed the city engineer shall report  
6 to the council in writing the total cost of such sewerage, with a  
7 description of the lot and land, as to the location, frontage, depth  
8 and ownership, liable for such sewerage assessment, so far as the  
9 same may be ascertained, together with the amounts chargeable  
10 against each lot and owner, estimated on the basis of cost, frontage  
11 measures on said sewer being considered, and thereupon said  
12 council shall give notice by publication in a newspaper of general  
13 circulation, published in said city, as is required in the case of  
14 street paving assessment, and the same right shall exist as to the  
15 persons and property affected, and the same duty as to correction  
16 by the council as are prescribed with reference to paving, which  
17 report shall, in like manner, be examined by the council, and if  
18 found to be correct, or corrected as aforesaid, and such estimated  
19 assessments to be a fair and equitable apportionment of the costs  
20 of said sewer, it shall enter an order upon its records setting forth  
21 such location, depth, ownership, and said amount of said sewer  
22 assessment against each property respectively, calculated as afore-  
23 said, and the entry of such order shall constitute and be an assess-  
24 ment for such proportion and amount so fixed therein, against  
25 such respective owners and lots. If after such advertisement,  
26 notice and hearing said council shall find that such apportionment  
27 at such rate is unjust or inequitable, it shall ascertain, fix and  
28 assess the cost thereof among and upon the abutting owners  
29 respectively, fairly and equitably and in like manner assess and

30 enter the amount so fixed, respectively, upon its records, and the  
31 council shall in either event thereupon certify the same to the  
32 sergeant for correction, and certify a copy of such order to the  
33 clerk of the county court of Fayette county, who shall record the  
34 same in the proper deed book, and index the same in the name of  
35 the owner of any such lot so charged with such assessment. Such  
36 assessment so made shall constitute and be a lien upon said lots  
37 respectively, which shall have priority over all other liens except  
38 those for taxes due the state and county, and shall be on a parity  
39 with other taxes and assessments due the city. Said amounts so  
40 assessed against said several land owners shall be paid by the  
41 parties liable therefor to the said sergeant at the time, in the man-  
42 ner and with the attendant penalties and interest, for failure to  
43 pay promptly at the time prescribed in all respects as hereinbe-  
44 fore provided in the case of assessment for paving of streets and  
45 alleys in a permanent manner; and the parties liable therefor in  
46 the same manner and to the same extent shall have the right and  
47 be entitled to anticipate any or all such installments. The owner  
48 or owners of any lot abutting upon any street or alley in said city,  
49 on which a public sewer is or may hereafter be laid and con-  
50 structed upon which any business or residence building is or may  
51 hereafter be erected, not otherwise connected to the public sewer,  
52 may be required and compelled by council to connect any such  
53 property with such sewer. Notice to so connect may be given by  
54 the council to the owner, lessee or occupant of such property.  
55 Each day's failure to comply with such notice and to connect with  
56 such sewer by such owner or owners, after ten days have elapsed  
57 after such notice has been given, shall be a misdemeanor and a  
58 separate offense and new offense under this section, and each  
59 offense shall be punishable by a fine of not less than five nor more  
60 than twenty-five dollars. Jurisdiction to hear, try and determine  
61 and sentence for violation of this section is vested in the police  
62 court of said city. If said owner or owners fail to comply with  
63 the notice to make such sewer connection, then the council may by  
64 ordinance order the work to be done at the expense of the city and  
65 the costs thereof to be certified to the clerk of the county court,  
66 and the same shall constitute a lien upon said property, with the  
67 same force and effect as taxes.

Sec. 48. The liens herein and hereinbefore provided for  
2 street paving and sewerage assessments shall constitute liens upon  
3 real estate upon which they are assessed, as against creditors of



4 the owners thereof or purchasers for value from, and without  
5 actual notice of such lien, only from and after the time that the  
6 statement thereof, certified as aforesaid shall be filed for record in  
7 the office of the clerk of the county court of Fayette county.

Sec. 49. When the whole or any portion of the improvement  
2 authorized by this act pass through or by a market space, park,  
3 cemetery, structure for the fire department, water works, school  
4 building, infirmary, market house, work house, hospital, house of  
5 refuge, bridge, gas works, public prison, court house, church, or  
6 any other public structure, or public ground within said city, and  
7 belonging to said city, or to the county, state, or any church,  
8 association or eleemosynary institution, the council may authorize  
9 the assessment to be certified to the clerk of the county court of  
10 Fayette county and the same shall thereupon be recorded by said  
11 clerk in the proper deed book and shall thereupon become a lien  
12 against said property and collectable as other assessments are col-  
13 lected against individuals under this act. It shall be the duty of  
14 those persons having charge of the fiscal affairs of any such prop-  
15 erty or institution to make the proper arrangements for meeting  
16 such assessments, when due and payable.

Sec. 50. The city of Montgomery, by ordinance of the  
2 council, may borrow money in an amount equal to the amount  
3 of said liens herein acquired, for the purpose of paying any  
4 contract for paving or sewerage under this act, and may assign  
5 said liens as security for such loan or loans; but in no event shall  
6 the money so borrowed be expended for any other purpose than in  
7 the payment of the indebtedness owing by the city for such work;  
8 that is, liens for the street paving can only be used by the city in  
9 borrowing money to pay for street paving, and liens for sewerage  
10 can only be used by the city in borrowing money to pay for  
11 sewerage.

## ARTICLE XXIX.

### *Bonded Indebtedness.*

Sec. 51. The council of said city shall have the right to  
2 bond the said city for the purpose of paving the streets and alleys  
3 of said city and for constructing water works or repairing the  
4 same, and for constructing a sewerage system, or repairing the  
5 same, and for the purpose of providing hose and other appliances  
6 for extinguishing fires, and for any and all public improvements

7 whenever the council thereof shall deem such improvement neces-  
8 sary, and to refund outstanding bonds at a lower rate of interest,  
9 and to issue new bonds for the purpose of increasing the length  
10 of time on any such indebtedness; but the aggregate indebtedness  
11 of said city shall for all purposes not exceed five per centum on  
12 the assessed valuation of the taxable property therein, based on  
13 the valuation of the last assessment next preceding the date of the  
14 incurring of such indebtedness; and the said council shall lay  
15 a levy sufficiently high on the taxable property of said city to  
16 provide a fund for the payment of the interest on and a sinking  
17 fund for the discharge of the principal of any and all indebtedness  
18 incurred in the manner aforesaid within the period of thirty-four  
19 years. Such bonds shall not be sold for less than par nor issued  
20 to refund outstanding bonds of said city except dollar for dollar.  
21 A record of all the proceedings had hereunder shall be kept by the  
22 council.

### ARTICLE XXX.

#### *Buildings for City Use, Etc.*

Sec. 52. The council shall have the authority to erect, buy,  
2 sell and lease all buildings necessary to the use of the city govern-  
3 ment, or any of its departments, and to provide for and regulate  
4 the same; to establish and maintain public hospitals and receive  
5 donations, gifts or bequest for the same, in trust or otherwise.

### ARTICLE XXXI.

#### *Health.*

Sec. 53. The council shall have the authority to ordain and  
2 enforce such regulations within said city as shall be necessary or  
3 proper to preserve the health of the inhabitants of said city and  
4 to secure them from disease; to require and compel the abatement  
5 of and removal of all nuisances within said city at the expense of  
6 the person or persons causing the same, or of the owner or owners  
7 of the ground whereon the same shall be; to prevent or regulate  
8 slaughter houses within the said city; or the exercise of any un-  
9 healthy or offensive business, trade or employment therein; to  
10 prevent the keeping of any stale meats, fish, vegetables, or other  
11 matter, or depositing the same, or dirt, rubbish or offal, upon any  
12 lot, street, alley or square within said city or upon the banks of  
13 any streams within the limits thereof.

Sec. 54. The council shall have the power by ordinance to  
2 regulate the sale of cocaine, morphine, opium, and poisonous drugs  
3 within said city, and to prescribe punishment including fine and  
4 imprisonment, for the violation of any such ordinance, and to  
5 provide that one or more convictions for violations of same shall  
6 operate as a revocation of the license of any druggist or pharmacist  
7 holding a license under said city.

Sec. 55. The council shall, in the month of February, one  
2 thousand nine hundred and twenty, and in said month of every  
3 year thereafter, appoint a suitable person, who shall be a prac-  
4 ticing physician, as health commissioner, whose term of office  
5 shall be for one year and until his successor is appointed and  
6 qualified. The members of the council, mayor and health com-  
7 missioner shall comprise the board of health of said city. The  
8 board of health shall have the power to abate all nuisances within  
9 said city, and it shall do and perform all such other duties and  
10 exercise such other powers as may be required of or conferred  
11 upon them by legal ordinances of said city. The council of said  
12 city shall provide by ordinances the way and method of trying  
13 and abating such nuisances, and shall prescribe all penalties that  
14 may be proper and necessary for such purpose. The board of  
15 health shall have the power to summon witnesses, hear testimony  
16 and to do any and all other things necessary and proper in the  
17 performance of such duties under this act and under the general  
18 laws of the state, in such cases made and provided.

## ARTICLE XXXII.

### *Police Department.*

Sec. 56. The mayor shall nominate a chief of police and  
2 such number of policemen as may be authorized by ordinance,  
3 from time to time, said nominations to be subject to confirmation  
4 by the council. Council shall prescribe by ordinance such mental  
5 and physical examinations for applicants for appointment to the  
6 police force as it shall deem proper. Policemen, when nominated  
7 and confirmed by the council shall hold office during the will of  
8 the council. The term of chief of police shall be for one year.  
9 No person shall serve or exercise any of the duties of a police officer  
10 until he shall have been confirmed as such by the affirmative vote  
11 of a majority of all the members elected to the council, unless he  
12 has been appointed a special officer as hereinbefore provided for.

13 Policemen may be removed and discharged at any time by the  
14 mayor for good cause, in which event he shall report such suspen-  
15 sion, together with the reason therefor, to the council at its next  
16 meeting. The council shall consider such suspension and may  
17 veto such suspension and may reinstate such policemen or confirm  
18 the suspension for such period as they may fix. *Provided*, that the  
19 council shall have the power to suspend without pay the chief of  
20 police or any policeman against whom charges are preferred.

#### ARTICLE XXXIII.

##### *Fire Department.*

Sec. 57. The fire department shall be under the supervision  
2 and subject to the rules and regulations prescribed by the council.

#### ARTICLE XXXIV.

Sec. 58. All officers of the city of Montgomery heretofore  
2 elected by vote of the people shall remain in and hold their offices  
3 and discharge the duties thereof until the first day of February,  
4 one thousand nine hundred and twenty, and thereafter until their  
5 successors have been elected and qualified.

6 All valid ordinances and regulations passed and adopted by  
7 the council on or before the fifteenth day of January, one thou-  
8 sand nine hundred and nineteen, and not consistent with this  
9 act, shall be and remain in full force, unless and until repealed,  
10 and the council now in office shall continue to exercise its powers  
11 as such until their successors are elected and qualified.

Sec. 59. All acts in conflict or inconsistent with this act are  
2 to the extent of any such conflict hereby repealed.

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## House Bill No. 276

AN ACT creating the municipal corporation of the city of Ronce-  
verte, in the county of Greenbrier, amending and re-enacting the  
charter granted to said city of Ronceverte by act of the legis-  
lature of West Virginia, chapter nine of the acts of one thousand  
nine hundred and nine, passed on the twenty-fourth day of  
February, one thousand nine hundred and nine.

*Be it enacted by the Legislature of West Virginia:*

*Corporate Powers.*

Section 1. That the inhabitants of that portion of Green-  
3 boundary described in section two of this act, now a municipal  
4 corporation existing and known as the city of Ronceverte, shall  
5 continue to be a body politic and corporate under the same name,  
6 and as such shall have perpetual succession; may use a corporate  
7 seal; may sue and be sued; plead and be impleaded; contract and  
8 be contracted with; acquire property for municipal purposes in  
9 fee simple or lesser interest or estate by purchase, gift, devise, ap-  
2 brier county, in the state of West Virginia, included within the  
10 propriation, lease, or lease with the privilege to purchase; may  
11 sell, lease, hold, manage and control such property, and make anv  
12 and all rules and regulations, by ordinance or resolution which  
13 may be required to carry out fully all provisions of any convey-  
14 ance, deed or will, in relation to any gift or bequest, or the pro-  
15 visions of any lease by which it may acquire property; may grant  
16 public franchises, to be exercised within the city; may acquire,  
17 own, construct, lease and operate light, heat and power plants and  
18 water works; may assess, levy and collect taxes for general and  
19 special purposes on all the subjects or objects within its boun-  
20 daries which the city may lawfully tax; may borrow money for  
21 permanent improvements and public works on the faith and credit  
22 of the city by the issue or sale of bonds or notes of the city, and  
23 in the issuance and sale of bonds or notes of the city the said  
24 city shall be governed by the restrictions and limitations of the  
25 constitution and laws of the state relating to the issuance and  
26 sale of bonds; may pave, repave, curb, recurb, grade, regrade,  
27 sewer, resewer, or otherwise permanently improve any street,  
28 alley, or roadway within the city limits and assess the cost thereof  
29 as hereinafter provided for; may appropriate the money of the  
30 city for all lawful purposes; may create, provide for, construct,  
31 regulate and maintain all things of the nature of public works  
32 and improvements; may direct the laying out of lots and the  
33 opening of streets and roadways; may define, prohibit, abate, sup-  
34 press and prevent all things detrimental to the health, morals,  
35 comfort, safety, convenience, welfare of the inhabitants of the  
36 city, and all nuisances and causes thereof; may regulate the con-  
37 struction, height, and materials used in all buildings and struc-  
38 tures of any kind and every kind, and the maintenance, occu-

39 pancy and use thereof; may regulate and control the use, for what-  
40 ever purposes, of the streets and other public places; may create,  
41 establish, organize and abolish offices not specifically provided  
42 for by this act, and fix the salaries and compensations of officers  
43 and employees when not fixed herein; may make and enforce  
44 local police, sanitary and other regulations, and prescribe, im-  
45 pose and enforce reasonable fines and penalties including impris-  
46 onment, and shall have the right to use the county jail of Green-  
47 brier county when necessary; and may pass such ordinances and  
48 resolutions as may be expedient or necessary for maintaining and  
49 promoting the peace, good government and welfare of the city,  
50 and for the performance of the functions thereof. The city of  
51 Ronceverte, as constituted by this act, shall retain, keep and suc-  
52 ceed to all rights, privileges, property, interest, claims and de-  
53 mands heretofore acquired by, vested in or transferred to the  
54 said city as heretofore constituted and shall have all powers that  
55 now are or hereafter may be granted to municipalities by the  
56 constitution or laws of West Virginia, or that are herein by im-  
57 plication conferred, or are necessary to or consistent with the  
58 purposes of this act; and all such powers, whether expressed or  
59 implied, shall be exercised and enforced in the manner pre-  
60 scribed by this act, or when not prescribed herein, in such manner  
61 as shall be provided by ordinances or resolutions of the govern-  
62 ing body herein provided for.

*Boundaries and Jurisdiction.*

Sec. 2. The corporate boundaries of the said city shall be as  
2 follows, that is to say:

3     Beginning at a poplar tree on the north bank of the Green-  
4 brier river, thence north forty-four degrees, fifty-seven minutes,  
5 west one thousand seven hundred forty-nine six tenths feet to a  
6 set stone near the top of the hill. Thence along side and near  
7 the top of said hill, west seven hundred seventy-five three tenths  
8 feet to a set stone, thence south sixty-three degrees, four minutes  
9 west, crossing top of a hill, at five hundred forty-seven feet, and  
10 center of L. & R. railroad track at one thousand two hundred  
11 twenty-four feet and in all two thousand six hundred forty-six  
12 feet to a set stone near stone culvert on the road from Lewisburg  
13 to Ronceverte, thence north eighty-three thirty-three one hun-  
14 dredths west one thousand one hundred forty-six eight tenths feet  
15 to a set stone near D. H. Foglesong's house; thence south sixty-

16 six degrees, forty-eight minutes west three thousand forty-seven  
17 four tenths feet to a set stone on top of a hill, thence south sixty-  
18 one degrees, fifty-six minutes west one thousand fifty-five six tenths  
19 feet to a set stone, in a hollow, thence south twenty-three de-  
20 grees, forty-seven minutes west one thousand two hundred sixty  
21 five tenths feet to a set stone, three feet from G. W. Perry's line,  
22 thence south forty-five degrees, thirteen minutes east two thou-  
23 sand one hundred seventy-nine two tenths feet to a hickory tree  
24 on the north bank of Greenbrier river, and thence upon the said  
25 river with the top of the north bank of the main stream thereof,  
26 and including the big islands, to the poplar tree, the point of  
27 beginning, in all ten thousand feet, more or less.

Sec. 3. The city of Ronceverte shall construct, maintain and  
2 control its streets and roadways and be exempt from the payment  
3 of taxes for the construction and maintenance of roads outside  
4 of the city limits, except that where the people of the city have  
5 heretofore, by special election, joined in the issuance of bonds for  
6 permanent road improvement within and without the city limits  
7 and have assumed their share of such obligations this act shall  
8 not exempt the taxable property of the city from the payment of  
9 any special taxes provided in said election for the liquidation of  
10 such indebtedness; nor shall this act prevent the future partici-  
11 pation of the city in permanent road improvement by special vote  
12 of the people under the laws of the state of West Virginia; but  
13 the said county of Greenbrier shall be chargeable with the con-  
14 struction and maintenance of all bridges within the city.

#### *Governing Body.*

Sec. 5. The municipal authorities of the city shall be three  
2 commissioners who shall constitute and be known as "The board  
3 of commissioners of the city of Ronceverte."

Sec. 6. All corporate powers of said city shall be vested in  
2 and be exercised by the board of commissioners or under its direc-  
3 tion as otherwise provided in this act.

Sec. 7. No person shall be eligible to the office of commis-  
2 sioner who is not at the time of his election entitled to vote in  
3 the city election and who was not for the preceding year assessed  
4 with taxes upon personal or real property, or both, within the  
5 city, of an assessed value of five hundred dollars, and did not  
6 actually pay the taxes so assessed.

Sec. 8. Commissioners shall be elected from the city at large

2 for a term of three years, except that at the first election the one  
3 ascertained to have been elected by the largest number of votes  
4 shall serve for three years, the one ascertained to have been elected  
5 by the next largest number of votes shall serve for two years,  
6 and the third one ascertained to have been elected by the next  
7 largest number of votes shall serve for one year. Thereafter one  
8 commissioner shall be elected each year for a term of three years.  
9 The commissioners shall each receive a salary of fifty dollars per  
10 annum.

### *Elections.*

Sec. 9. The first election under this act shall be held on  
2 the first Tuesday in June, one thousand nine hundred and nine-  
3 teen, at the regular voting places within the city, under the super-  
4 vision of the council and officials of the city as at present con-  
5 stituted, and be conducted, certified, returned and finally de-  
6 termined, in accordance with the provisions of this act and the  
7 laws and ordinances, or such parts thereof, as are now in effect  
8 and not inconsistent with the provisions of this act.

Sec. 10. Municipal elections under this act shall be con-  
2 ducted as follows:

3 (a) Every person who has been a *bona fide* resident of the  
4 city for six months next preceding a city election therein, and  
5 who is a qualified voter under the constitution and laws of this  
6 state, shall be entitled to vote at said city election in the elec-  
7 tion precinct in which he actually resides; but no person shall  
8 be deemed a *bona fide* resident who is residing within the city  
9 limits for any temporary purpose and expects to remove from  
10 the city after said purpose shall have been accomplished. The  
11 board of commissioners may by ordinance provide for the reg-  
12 istration of voters under the laws of the state of West Virginia.  
13 The board of commissioners shall, after the first election held  
14 hereunder, establish the boundaries of and designate and provide  
15 voting precincts within the city, which precinct boundaries and  
16 places of voting shall be, if practicable, in conformity within  
17 the city with those established for general election purposes by  
18 the county.

19 (b) Any person eligible to the office of commissioner may  
20 become a candidate and have his name placed upon the ballot,  
21 either upon his own motion or by others, by filing with the city  
22 clerk a declaration of his candidacy and a certificate of his



23 eligibility, within sixty days next preceding the day of the elec-  
 24 tion, signed by twenty-five qualified voters of the city. Said  
 25 declaration and certificate shall be accompanied by a fee of ten  
 26 dollars to be paid into the treasury of the city, and shall be  
 27 filed with the city clerk not less than fifteen days prior to the  
 28 day of election. The names of all candidates for the office of  
 29 commissioner shall appear on one ballot and said ballot shall  
 30 be without party emblem or designation. The whole number  
 31 of ballots to be printed for the election of commissioners shall  
 32 be divided by the number of candidates and the quotient so  
 33 obtained shall be the number of ballots in each series of ballots  
 34 to be printed.

35 (c) The names of the candidates shall be arranged in  
 36 alphabetical order and the first series of ballots printed. The first  
 37 name shall then be placed last and the next series printed, and  
 38 this process shall be repeated until each name shall have been  
 39 first. These ballots shall then be combined into tablets in the  
 40 order of the series with no two of the same series together.

41 (d) The ballots to be used for the election of commis-  
 42 sioners shall be in form as follows:

43 CANDIDATES FOR ELECTION TO THE OFFICE OF  
 44 COMMISSIONER.

45 CITY OF RONCEVERTE, W. VA.

46 Tuesday,.....19.....

47 DIRECTION TO VOTER: Put a figure one in the blank space  
 48 opposite the name of the candidate whom you most desire  
 49 elected. Then put a figure two in the space opposite the name  
 50 of the candidate who is your second choice. Then put a figure  
 51 three in the space opposite the name of the candidate who is  
 52 your third choice. Do not mark after more than three names.  
 53 If you spoil this ballot, tear it across once and hand it to the  
 54 election officer in charge and he will give you another.

| 55 | NAME OF CANDIDATES. | CHOICE. |
|----|---------------------|---------|
| 56 | .....               | .....   |
| 57 | .....               | .....   |
| 58 | .....               | .....   |
| 59 | .....               | .....   |
| 60 | .....               | .....   |

61 (e) A fac-simile as nearly as possible of the ballot to be  
62 used in all elections, bearing the names of all candidates in alpha-  
63 betical order, shall be published in the same manner as is pro-  
64 vided by law for the publication of ballots for general elections  
65 in West Virginia, together with the certificate of the city clerk  
66 that it contains the names of all candidates filing with him in  
67 the manner prescribed in this act, but that it does not show  
68 the order in which the names will appear on all ballots.

69 (f) A valid ballot cast in the elections for commissioners  
70 shall be one on which the voter has clearly expressed his choice  
71 of one or more candidates. If a voter express the same choice  
72 for more than one candidate, his vote shall be void as for that  
73 choice. If he express more than one choice for one candidate  
74 the highest properly expressed choice only shall be counted for  
75 said candidate.

76 (g) A vote equal to or greater than a majority of the total  
77 valid ballots cast within the city shall be necessary to an election.  
78 During the counting of the votes, all ballots or votes not counted  
79 shall be marked by the election commissioners of each precinct  
80 with the words "not counted" written upon the ballot or oppo-  
81 site the vote not counted, together with a statement of the rea-  
82 sons for not counting, and the total number of invalid ballots  
83 marked thus and not counted shall be ascertained by them at  
84 the conclusion of the counting and be shown upon the precinct  
85 return certificate and subtracted from the total number of bal-  
86 lots taken from the ballot box.

87 (h) In ascertaining the result of the election, the can-  
88 vassing board shall first count the first choice votes received by  
89 each candidate. If a candidate be found to have received a total  
90 of first choice votes equal to or greater than a majority of the  
91 total valid ballots cast, he shall be declared elected.

92 But if more than one commissioner is to be elected or no  
93 candidate shall have received the number of first choice votes  
94 necessary for an election, then the second choice votes received  
95 by each of the candidates who were not elected by the first choice  
96 votes shall be added to his first choice votes, and if one or more  
97 of said candidates shall be found to have received a total of first  
98 and second choice votes equal to or greater than a majority of  
99 the valid ballots cast, that candidate who shall have received the  
100 highest number of first and second choice votes shall be declared  
101 elected. But if the required number of commissioners shall not

102 be found to have been elected by first and second choice votes,  
103 then the third choice votes received by each of the candidates  
104 who were not elected by the first or first and second choice votes,  
105 shall be added to his first and second choice votes, and those  
106 candidates to the number of commissioners yet remaining to  
107 be elected, who shall be found to have received the highest vote,  
108 shall be declared elected in the order of the vote received, be-  
109 ginning with the highest; and if an election of one or more be  
110 prevented by a tie, then of those tied the one or ones who received  
111 the highest total of first and second choice votes shall be declared  
112 elected; and if there be yet a tie, then of those tied the one or  
113 ones who received the highest number of first choice votes shall  
114 be declared elected; and if there be yet a tie, then selection shall  
115 be made by lot by placing within a hat the names of those can-  
116 didates who are tied and drawing therefrom one name at a time  
117 to the number of commissioners yet to be elected. The candi-  
118 dates whose names are thus drawn shall be declared elected as  
119 drawn.

Sec. 11. Commissioners only shall be elected by popular  
2 vote. All other officials and employees shall be appointed by the  
3 commissioners in such manner as is provided by this act or as  
4 they may by ordinance properly prescribe, and shall hold office  
5 during the pleasure of the board of commissioners, subject to re-  
6 moval for cause. The annual election of commissioners shall be  
7 held on the first Tuesday in June. Each person elected or ap-  
8 pointed to an office in the city shall within thirty days after his  
9 election or appointment and before entering upon the duties of  
10 his office, take and subscribe the oath of office prescribed by law  
11 for county officers, which shall be done before a notary public,  
12 and the certificate of the officer administering the oath shall be  
13 filed with the city clerk.

14 The term of office of a commissioner elected and qualified  
15 shall begin with the first day of July next following the day of  
16 his election. A vacancy in the office of commissioner shall be  
17 filled by appointment by the remaining commissioners until the  
18 next municipal election, when said vacancy shall be filled by  
19 election for the part of the term then unexpired.

Sec. 12. At least four weeks before the day of an election  
2 the board of commissioners shall appoint from among the quali-  
3 fied voters for their respective voting precincts such election offi-  
4 cers as are provided for by the laws of the state for holding elec-

5 tions. The said officers of election shall be selected from the  
6 two political parties which at the last preceding state election  
7 cast the highest number of votes in the precinct in which they  
8 reside, and not more than two of said commissioners of election  
9 nor more than one clerk shall belong to the same political party.  
10 At least four weeks before the date of a municipal election the  
11 city clerk shall appoint one ballot commissioner from among the  
12 voters of the two aforesaid political parties, within the city, who  
13 with himself as chairman, shall constitute the board of ballot  
14 commissioners.

15 Elections under this act shall be conducted, returned and  
16 the results thereof ascertained and declared in the manner pre-  
17 scribed by the constitution and laws of the state in so far as said  
18 laws are not inconsistent with this act, and all penalties pre-  
19 scribed by said laws of the state in so far as consistent shall be  
20 applicable under this act.

21 The board of commissioners shall by ordinance provide such  
22 additional regulations in conformity with the provisions of this  
23 act as are necessary for the proper conduct of elections.

24 The duties required of the clerks of the circuit and county  
25 courts under the election laws of West Virginia, shall be per-  
26 formed by the city clerk of said city. The duties required of the  
27 commissioners of the county court under the provisions of said  
28 laws shall be performed by the board of commissioners of said  
29 city. The duties required of the sheriff under the provisions of  
30 said laws shall be performed by the chief of police of said city,  
31 except as specifically provided otherwise herein. And the duties  
32 required of any constable under the provisions of said laws shall  
33 be performed by any member of the police force of the said city.  
34 Wherever the word "county" appears in said laws, the same shall  
35 be taken to refer to the city of Ronceverte, and wherever the  
36 words "election precinct" or "precincts" appear in said laws they  
37 shall be taken to refer to the election precinct or precincts for the  
38 municipal election, and wherever the words "court house" shall  
39 appear in said laws as designating the place of meeting of the  
40 election officers and boards, the same shall be taken to refer to  
41 the municipal building.

42 If at any time a commissioner shall be a candidate for re-  
43 election to said office, the other commissioners shall appoint some  
44 person to act in his stead as a member of the canvassing board for

45 the purpose of canvassing the returns and ascertaining the result  
46 of the election at which he is a candidate.

*Duties and Responsibilities of Board of Commissioners.*

Sec. 13. The board of commissioners shall be vested with all  
2 legislative authority of the city and shall exercise the same by  
3 ordinance; other action by them may be by order upon motion.  
4 They shall, by ordinance, prescribe the manner in which the pow-  
5 ers conferred upon the city shall be exercised in conformity with  
6 the provisions of this act.

Sec. 14. They shall meet in the municipal building of the  
2 city and shall provide by ordinance for the manner and times of  
3 holding said meetings, at least one regular meeting being held  
4 each month.

5 They shall cause to be kept in a well-bound book, called the  
6 "city journal," an accurate record of all their proceedings, by-  
7 laws, ordinances, orders, and resolutions, and the same shall be  
8 open for public inspection during usual office hours.

Sec. 15. A meeting shall be held on the first Monday of  
2 July of each year for the purpose of electing one of their num-  
3 ber to the office of mayor. If they shall fail to agree upon a mayor  
4 within ten days, then the oldest commissioner in point of con-  
5 tinuous service shall act as mayor, *pro tempore* until a mayor  
6 may be elected.

Sec. 16. A majority of the commissioners shall constitute  
2 a quorum for the transaction of business, and no act shall be done  
3 unless a majority of the commissioners shall vote in favor thereof.

Sec. 17. They shall fix the compensation of all appointive  
2 officials and employees of the city.

Sec. 18. They shall grant franchises, levy and collect taxes  
2 and assessments, order payment of approved accounts, hear and  
3 determine charges against all officials of the city other than mem-  
4 bers of their own body, require that the laws and ordinances be  
5 obeyed and enforced, cause the affairs of the city to be efficiently  
6 and economically administered, and perform such other duties as  
7 properly devolve upon the chief executive body of the city.

Sec. 19. No commissioner or official of the city shall vote  
2 upon or in any way participate in the consideration of any proposi-  
3 tion in which he is, or may become interested, otherwise than as a  
4 resident of said city, nor shall he be financially interested, directly  
5 or indirectly, in any contract, sale or transaction, to which the  
6 city is a party, nor shall he vote on the same or participate in any

7 manner in said contract, sale or transaction, under penalty, upon  
8 conviction, of forfeiture of his office and a fine of not less than  
9 five nor more than five hundred dollars.

Sec. 20. No commissioner or official of the city shall be  
2 surety on any bond given to or for the benefit of the city.

Sec. 21. The board of commissioners shall elect or appoint  
2 the following officers and employees:

3 (a) A city clerk.

4 (b) A chief of police and members of the police force.

5 (c) A city solicitor.

6 (d) A city treasurer.

7 (e) A street commissioner.

8 (f) A superintendent of water works and lights.

9 (g) Such other employees as may be necessary and provided  
10 for by ordinance.

11 Each of said officers shall hold office for one year and be sub-  
12 ject to removal at any time for cause, by the appointing body.  
13 Their duties shall be prescribed by the board of commissioners,  
14 and as herein provided. One person may be elected or appointed  
15 to and discharge the duties of more than one of said offices.

#### *Duties of Appointive Officials.*

Sec. 22. The mayor shall preside at meetings of the board of  
2 commissioners; shall exercise such authority and perform such  
3 duties as are conferred upon him or imposed upon him by this act,  
4 the ordinances of the city and the laws and constitution of the  
5 state. He shall be the official head of the city for all ceremonial  
6 purposes and upon whom service may be had in civil process and  
7 by the governor for military purposes. He shall see that the orders,  
8 by-laws, ordinances and resolutions of the board of commissioners  
9 are faithfully executed; he shall be ex-officio a justice and con-  
10 servator of the peace within the city and shall within the same,  
11 have, possess and may exercise, all the powers and perform all the  
12 duties whether in civil or criminal proceedings, vested by law in a  
13 justice of the peace. Any summons, warrant or other process,  
14 issued by him may be executed at any place within the county; he  
15 shall have power during the recess of the regular meetings of the  
16 board of commissioners to appoint special police officers when he  
17 shall deem it necessary, and it shall be his duty to see that the  
18 peace and good order of the city are preserved, and that persons  
19 and property therein are protected; and to this end he may arrest  
20 and detain, or cause the arrest and detention of all riotous or dis-

21 orderly persons before taking other proceedings in the case; he  
22 shall from time to time recommend to the governing body such  
23 measures as he may deem needful for the welfare of the city; he  
24 shall not receive any money due or belonging to the state or cor-  
25 poration or to individuals, nor have the civil jurisdiction of a  
26 justice, unless and until he shall have given the bond required of  
27 a justice of the peace by the laws of West Virginia, and all the  
28 provisions of said laws relating to moneys received by justices  
29 shall apply to moneys received by him in like cases.

30 The mayor shall receive a salary of not less than one hundred  
31 nor more than three hundred dollars per annum, and shall not  
32 receive the salary of a commissioner in addition thereto; such  
33 salary shall be in lieu of the fees which would otherwise accrue to  
34 him in proceedings for the enforcement of ordinances, but all  
35 such fees shall be collected when practicable, and accounted for  
36 to the city, and he may tax such costs against any person or cor-  
37 poration found guilty of the violation of any ordinance of the  
38 city, as are provided to be taxed and recovered by justices of said  
39 county in criminal cases.

Sec. 23. The process in proceedings to enforce any ordinance  
2 prescribing a fine or imprisonment, or a fine and imprisonment,  
3 for the violation thereof, shall be a summons in the name of the  
4 city of Ronceverte as plaintiff directed to the chief of police, to  
5 one of the regular police officers of the city, or to any constable of  
6 any district within the said city, requiring him to summon the  
7 person accused of such violations and who shall thereafter be  
8 designated as defendant, to appear before the mayor at the time  
9 and place therein named, to make answer to such accusation and  
10 be dealt with according to law; such summons shall contain such  
11 a statement of the facts alleged as will inform such person of the  
12 general nature of the offense against the city with which he  
13 stands charged, and except in cases of arrest upon view, shall be  
14 issued only upon the complaint on oath, of some creditable person.  
15 But the mayor may for good cause appearing, by endorsement on  
16 the summons, order the person so accused to be forthwith appre-  
17 hended and brought before him for a hearing on the charge. The  
18 clerk of said city as well as the mayor, shall have authority to  
19 receive any complaint in writing of the violation of any ordinance,  
20 and to sign and issue the proper summons based upon such com-  
21 plaint. The mayor shall possess and may exercise the power and  
22 authority belonging to a justice under the laws of the state of

23 West Virginia in summoning and enforcing the attendance and  
24 examination of witnesses, in punishing for contempt, in granting  
25 continuances, and in securing and enforcing the further attend-  
26 ance of the accused with a view to a trial or hearing. If any  
27 recognizance be taken for such further attendance, and is for-  
28 feited, the mayor may record the default, and an action be main-  
29 tained in the name of the city, before the mayor, or any justice  
30 having jurisdiction, against the accused and his sureties, if any,  
31 to recover the penalty thereof.

Sec. 24. The mayor shall have power to issue an execution  
2 for any fine and costs assessed or imposed by him, for the violation  
3 of any ordinances, or he may at the time of rendering judgment  
4 therefor, or at any time thereafter and before satisfaction of such  
5 judgment, by his order in writing, require the immediate pay-  
6 ment thereof; and in default of any such payment he may cause  
7 the person so in default to be apprehended and brought before  
8 him, and commit him to the jail of Greenbrier county or in his  
9 discretion to the prison of said city, if one shall have been pro-  
10 vided, and require him to labor on the streets until the fine and  
11 costs are fully paid; but such imprisonment shall not exceed  
12 ninety days.

Sec. 25. The jail of Greenbrier county may be used as a  
2 lockup for said city. The jailor of said county shall take and  
3 receive into his custody any person authorized to be confined  
4 therein by the ordinance of said city, or sentenced to imprisonment  
5 therein, or committed thereto, for nonpayment of a fine or costs  
6 or for failure to enter into a recognizance by the judgment or  
7 order of the mayor, in proceedings for the violation of an ordi-  
8 nance; and the expense of maintaining such persons while so in  
9 confinement shall, if such person be found guilty of such viola-  
10 tion, be charged to such person as part of the costs, but whether  
11 collected from such person or not, such expense shall be paid to  
12 said jailor by the city.

Sec. 26. A book well bound and indexed, to be denominated  
2 the "docket" shall be kept in the office of the mayor, in which  
3 shall be noted each case brought or tried by him together with  
4 the proceedings therein, including a statement of complaint, the  
5 summons, the return, the fact of appearance, the defense, the  
6 hearing, the judgment, the costs, and in case the judgment be  
7 one of conviction, the action taken to enforce the same; the  
8 record of such case shall be signed by the mayor or other person



9 acting in his stead; and the original papers thereof, if no appeal  
10 be taken, shall be kept together and preserved in his office.

*Appeal.*

Sec. 27. Appeals shall lie from the judgment of the mayor  
2 or municipal court to the circuit court of Greenbrier county, in  
3 accordance with law.

*City Clerk.*

Sec. 28. In addition to such duties as the board of com-  
2 missioners may prescribe, it shall be the duty of the city clerk  
3 to keep the journal of the proceedings of the board of commis-  
4 sioners, and have charge of and preserve the records, papers,  
5 contracts and other documents belonging to the city; it shall be  
6 his duty to attend the sessions of the municipal court and keep  
7 an accurate record of its proceedings, and all judgments shall be  
8 entered by him within twenty-four hours after the same are  
9 rendered; he shall, in cases of sickness or disability of the mayor  
10 to act, or in case of his temporary absence, perform the duties  
11 of mayor, and shall be vested with all the powers necessary for  
12 the performance of such duties; he shall also perform such other  
13 duties pertaining to the fiscal affairs of the city, or otherwise, as  
14 may be required of him by this act or by the board of commis-  
15 sioners.

16 As soon as the rate of levy shall have been fixed by the  
17 board of commissioners according to law, the clerk shall furnish  
18 the officer whose duty it is to make out the land and personal  
19 books, a certified copy of the order of the council, fixing the rate  
20 of tax and such officer shall thereupon extend the tax against  
21 the property situated in the city in the land and personal prop-  
22 erty books in separate columns in said books.

Sec. 29. The clerk shall, when the extended copies of the  
2 assessor's books are completed and returned to the clerk of the  
3 county court, have access to the same for the purpose of making  
4 out the tax tickets of the taxes therein extended, and it shall be  
5 the duty of the clerk to make out all tax tickets, and when the  
6 same shall have been examined, compared and approved by the  
7 board of commissioners or its financial committee and found to  
8 be correct, they shall be forthwith turned over to the clerk, whose

9 receipt shall be returned to the council and entered upon its  
10 record and the clerk shall be charged therewith.

11 The clerk shall give notice that said tax tickets are in his  
12 hands for collection, stating the penalty for non-payment thereof,  
13 and the time and place where the same may be paid, which  
14 notice shall be published for two weeks in one or more news-  
15 papers published in the city.

16 The clerk shall immediately proceed to collect from the per-  
17 sons by distraint or otherwise the entire amount of the taxes  
18 with which they are severally charged therein, and remaining  
19 unpaid on the first day of January next succeeding said levy,  
20 with interest at the rate of one *per centum* per month from the  
21 first day of January until they are fully paid.

22 All license taxes shall be payable on the first day of July of  
23 each year, or at such time as such licenses may be issued.

Sec. 30. The said clerk shall receive all taxes, assessments,  
2 fines and costs, water rents, and other money due the city  
3 authorized by this act, or by any ordinance of the said city, to be  
4 paid to the city, and shall receipt for the same; he shall keep  
5 an accurate account of all money paid to him for the use of said  
6 city, showing under separate accounts the amounts received for  
7 account of taxes, sewer purposes, street improvements or pave-  
8 ments, licenses, water rents and other bills due the city, fines and  
9 costs and of other matters pertaining to his office, which books  
10 shall be at all times open to the inspection of the commissioners  
11 or to any committee appointed by the board of commissioners  
12 for such purposes; he shall pay over promptly all money which  
13 he may receive, within five days after the receipt thereof, into  
14 the hands of the treasurer of the said city, showing an itemized  
15 statement of the several funds included in said payment, taking  
16 the treasurer's receipt therefor; he shall keep his office at the  
17 office of the mayor, unless otherwise ordered by the board of  
18 commissioners, and shall maintain office hours or be at his office  
19 for the transaction of business at such times as the board of  
20 commissioners may prescribe; he shall on or before the first  
21 day of January and July of each year, and oftener if directed  
22 by the board of commissioners, present to the said board a full,  
23 complete and detailed statement of all money with which he is  
24 chargeable, or that has been received by him from all sources  
25 up to that time, together with a statement of all money paid

26 to the treasurer and proper receipts therefor, and he shall at  
27 such times return a list of all taxes, levies, assessments and other  
28 claims in his hands for collection which he shall not have been  
29 able to collect by reason of insolvency, removal, or other cause,  
30 to which list he shall append an affidavit that he has used due  
31 diligence to collect the several items therein mentioned, but has  
32 been unable to do so, and if the board of commissioners should  
33 be satisfied as to the correctness of said list, then may allow him  
34 credit for said claims, but thereafter may direct the said city  
35 clerk or someone else or may themselves take such lawful meas-  
36 ures to collect the same as shall be by the board of commissioners  
37 prescribed. The said clerk shall receive all taxes on licenses,  
38 and receipt to the party paying the same by endorsement upon  
39 the permit granted by order of the board of commissioners and  
40 shall charge himself with the amount received from the same,  
41 and report to the board of commissioners at the next regular  
42 meeting thereafter, the amount so received, and pay the same  
43 over to the treasurer taking his receipt for the same; he shall  
44 upon the expiration of his term of office or upon the order of  
45 the board of commissioners, turn over to his successor all money,  
46 books of account and other property of said city in his possession,  
47 and he and his bondsmen shall not be released until such full  
48 and complete transfer to his successor has been made; he shall  
49 receive such salary as may be fixed by the board of commis-  
50 sioners.

51 The city clerk shall collect the capitation tax for the city  
52 in the same manner and at the same time that the county asses-  
53 sor collects the capitation tax for the county, and in respect to  
54 this duty shall perform the duties required of the county assessor.

Sec. 31. The clerk of said city, before entering upon the  
2 discharge of his duties, shall execute a bond conditioned for the  
3 faithful performance of the duties of his office, and for the ac-  
4 counting for and paying over, as required by law and by this  
5 act, all money which may come into his hands by virtue of his  
6 office, with sureties satisfactory to the board of commissioners,  
7 payable to the city of Ronceverte, in a penalty of not less than  
8 two thousand nor more than ten thousand dollars, as the board  
9 of commissioners may prescribe; he shall be the custodian of all  
10 bonds, notes, certificates and other evidences of indebtedness to  
11 the city, together with all valuable papers which may be placed

12 in his possession by the board of commissioners, except that the  
13 bond of the clerk shall be deposited with the mayor; he shall be  
14 chargeable with, and it shall be his duty to collect the city taxes,  
15 levies and assessments under such regulations as may be pre-  
16 scribed by law and the ordinances of the city, and in case of non-  
17 payment as defined by the laws of West Virginia, shall distrain  
18 and sell therefor in like manner and have the same power and  
19 authority possessed by the officer charged with the collection of  
20 state and county taxes. At the time and in the same manner  
21 provided by the laws of West Virginia for the return and pub-  
22 lication of delinquent tax lists he shall make up a list of taxpay-  
23 ers who are delinquent for the non-payment of tax on personal  
24 property and cause the same to be published in accordance with  
25 the laws of West Virginia for the publication of taxpayers de-  
26 linquent for the non-payment of state and county taxes on per-  
27 sonal property; and at the time and in the manner prescribed  
28 by the laws of West Virginia the said city clerk shall return  
29 to the auditor of West Virginia a list of the real estate in said  
30 city delinquent for the non-payment of taxes and the same shall  
31 be sold in the manner prescribed by law for such sales.  
32 If the clerk shall fail to collect, account for and pay over to the  
33 treasurer of said city any or all of the money with which he  
34 may be chargeable, belonging to the said city, according to the  
35 conditions of his bond and orders of the board of commissioners,  
36 it shall be lawful for the board of commissioners to recover the  
37 same by action or by motion, upon ten days' notice in the cor-  
38 porate name of the city, in the circuit court of Greenbrier  
39 county, against him and his sureties, or any or either of them,  
40 or his or their executors or administrators.

*City Solicitor.*

Sec. 32. The city solicitor shall be an attorney at law ad-  
2 mitted to practice in the state of West Virginia. He shall be  
3 the legal adviser of and attorney and counsel for the municipality  
4 and for all officers thereof in matters relating to their official  
5 duties; it shall be his duty to prepare when directed by the  
6 board of commissioners, all ordinances for said city, to repre-  
7 sent the said city in all matters and proceedings in any court in  
8 which the said city is interested, and counsel the said board of  
9 commissioners when requested; he shall receive a compensation  
10 for his services to be fixed by the board of commissioners.

*City Treasurer.*

Sec. 33. The treasurer may be a citizen, a bank or trust company of said city, and shall be appointed by the board of commissioners and hold office during the pleasure of the board of commissioners. All money due the city shall be paid to the clerk, and be by the clerk deposited with the treasurer. The money deposited with the treasurer shall be disbursed only upon orders drawn against the same, signed by the mayor and countersigned by the clerk. The treasurer shall receipt to the clerk for all money paid by him, and shall keep the regular books of accounts, showing the amount of the several funds paid or deposited with the treasurer by said clerk, and shall make report to the board of commissioners once a month or at such other times as the board of commissioners may direct, showing the receipts and disbursements of the funds of the city, and the treasurer shall produce his books and accounts to the board of commissioners or any committee of the same for inspection, upon the order of the board of commissioners.

The treasurer shall give bond with security to be approved by the board of commissioners in a sum of not less than five thousand dollars, with condition that the said treasurer shall account for and pay over all money received for the account of said city, as may be directed by the board of commissioners. The said treasurer shall receive such compensation as the board of commissioners may fix, which shall not be more than at the rate of two hundred dollars per annum. Any bank or trust company of said city is hereby authorized to act as treasurer of said city, and the same shall be liable for all money deposited therein.

*Other Officers.*

Sec. 34. The chief of police, city commissioner, and other officials or employees deemed necessary by and appointed or employed by the board of commissioners, shall perform such duties as the board of commissioners shall by ordinance, resolution or order require. They shall be subject to removal at any time for cause by the board of commissioners without recourse to the city, and the board of commissioners may direct the dismissal of any employee for cause.

*City Health Board.*

Sec. 35. The board of commissioners shall, at their first meeting after election, and thereafter at the first meeting in July of each year, appoint and constitute a city board of health to be composed of a chief health officer who shall be a practicing physician of good standing in the city, if such there be who will serve faithfully for the compensation of fifty dollars per annum, and if no practicing physician of good standing will serve as such chief health officer for said compensation, then the board of commissioners may appoint any reputable citizen as such chief health officer, who, with the city solicitor and two other citizens of good repute and interested in the welfare of the city, shall constitute the city board of health to exercise all powers conferred upon county health officers and boards by the laws of the state of West Virginia, and the said city board of health shall be independent of the county board of health, but shall bear the same relation to the state health department as county boards of health; the city health board shall protect the health of the city and take such measures as may be advisable to prevent the spread of contagious diseases; establish and maintain quarantines when necessary and required by state laws; may establish rules of sanitation and enforce the same.

When the city health board shall have been established and each year thereafter, the county court of Greenbrier county shall estimate and ascertain the whole amount of public funds of the county which has been used, paid out or appropriated in the interest of the public health of the county, and shall refund to the city of Ronceverte the proportion of such amount which was borne by the taxable property of the city of Ronceverte to the taxable property of the entire county, and the county of Greenbrier shall be exempt from the maintenance of the public health of the city.

*Lien for Taxes.*

Sec. 36. There shall be a lien on the real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of said city, from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the board of commissioners or proper officer of the city in the same manner provided by law for the enforcement of the lien for county taxes.

*License.*

Sec. 37. The board of commissioners shall have authority to  
2 require a city license for anything done, carried on or exhibited  
3 within the city, for which a state license is now or may hereafter  
4 be required; for the keeping of hacks, carriages, carts, wagons and  
5 other vehicles for hire within the city, and for the keeping of  
6 dogs within the city; and the board of commissioners may provide  
7 for the killing of all dogs, the keeping of which is not so licensed.  
8 And upon all such licenses the city may impose a reasonable tax  
9 for the use of the city. The board of commissioners shall prescribe  
10 by ordinance the manner in which licenses of all kinds shall be  
11 applied for and granted, and shall require the payment of the  
12 tax thereon to be made to the properly designated official of the  
13 city before delivery to the person applying therefor, and the pro-  
14 visions of section thirty-nine, forty and forty-one of chapter  
15 thirty-six of the acts of one thousand nine hundred and five,  
16 relating to licenses shall govern the city in the granting of licenses  
17 similar in character to those therein mentioned, except where  
18 otherwise herein provided. Licenses for keeping dogs shall expire  
19 on the thirtieth day of June next after they are granted, and all  
20 other licenses may be for such times as the board of commissioners  
21 may determine.

Sec. 38. The board of commissioners shall have the right  
2 to institute proceedings in the name of the city for the condem-  
3 nation of real estate for streets, alleys, sewers, drains, market  
4 grounds, city prison, or other work or purposes of public utility.  
5 Such proceedings shall conform to the provisions of chapter  
6 forty-two of the code of West Virginia and amendments thereto,  
7 and the costs thereof shall be borne by the city, except that in  
8 contests involving a hearing in the circuit court, costs shall be  
9 recovered by the prevailing party.

*Ordinances.*

Sec. 39. No ordinance or by-law, and no resolution or  
2 measure for the expenditure of money other than to defray the  
3 current expenses and incidental expenses of the city, shall be  
4 deemed adopted or passed unless it shall have been fully read  
5 at two consecutive meetings of the board of commissioners, and  
6 shall have received a majority of the votes of all members of  
7 the board of commissioners, when it shall stand and be declared

8 adopted, and not otherwise, except an ordinance for the imme-  
9 diate preservation of the public peace, health or safety, which  
10 shall contain a statement of its urgency.

*Franchises.*

Sec. 40. Franchises may be granted by the board of com-  
2 missioners to persons or corporations allowing such occupancy  
3 of portions of the streets and alleys as may be necessary for  
4 works of public utility and service, but no such franchise shall  
5 be passed granting any franchise for the use of any of the streets  
6 or alleys of the city for any of the purposes above named, except  
7 under the following conditions:

8 All franchises must be filed with the city clerk at least thirty  
9 days prior to the time when it is proposed that the board of com-  
10 missioners shall act thereupon, and no action shall be taken until  
11 notice of such application, stating the object of such franchise  
12 and when the same shall be considered by the board of commis-  
13 sioners, shall have been given for four successive weeks in some  
14 newspaper of general circulation published in the city; nor shall  
15 any franchise be granted within thirty days after the application  
16 has been filed, nor until an opportunity has been given any citi-  
17 zen or corporation interested in the granting or refusing of said  
18 franchise to be heard; nor shall any franchise be granted for a  
19 longer period than fifty years. No franchise shall be granted  
20 without provision that the grantee, its successors or assigns, shall  
21 indemnify the city against all damages caused by the construc-  
22 tion of such works.

23 If any corporation or person to whom a franchise has  
24 been granted heretofore, or may hereafter be granted, or their  
25 successors or assigns, shall fail to comply with the conditions  
26 of the ordinance granting such franchise within one year from  
27 the time said conditions are directed to be performed, said fran-  
28 chise shall be and the same become null and void.

*Sidewalks.*

Sec. 41. The board of commissioners shall have power to  
2 determine the material to be used in building all sidewalks, and  
3 shall determine where such sidewalks shall be constructed, and  
4 the width and grade thereof, and shall fix upon the material  
5 with which the same shall be built, and may make an order re-



6 quiring the owners of the lots, or parts of lots, facing or abutting  
7 on such sidewalk or footway, to pave the same with such material  
8 and on such grade and of such width, as may have been deter-  
9 mined, at the expense of such owner, and under the supervision  
10 of the official of the city so designated by the board of commis-  
11 sioners, and if such owner of such abutting lot or lots, fail or  
12 refuse to pave the same in the manner or within the time re-  
13 quired by the board of commissioners, the said board of commis-  
14 sioners may cause the same to be done, at the expense of the  
15 city, and to assess the amount of such expense upon such owner,  
16 and the clerk shall notify the owner of said lot the amount of  
17 such assessment and if the said assessment be not paid within  
18 thirty days from the date of said notice he shall cause a memor-  
19 andum showing the name of the owner of said lot, a description  
20 of the lot, and the amount of such assessment, to be filed in the  
21 office of the clerk of the county court of Greenbrier county,  
22 which shall be entered of record in the judgment lien docket in  
23 his office, and the same shall constitute a lien on such property,  
24 which may be enforced by a suit in equity in the name of the  
25 city, in the circuit court of Greenbrier county as other liens  
26 against real estate are enforced, and upon the payment of such  
27 assessment the clerk shall issue to the person entitled thereto a  
28 release of said lien; *provided, however*, that reasonable notice  
29 shall first be given to said owners that they are required to con-  
30 struct such sidewalks or footways, and in case the owner is a  
31 non-resident of the state, the notice aforesaid may be given by  
32 publication for four successive weeks in a newspaper published  
33 in the city. The provisions of this section shall also be appli-  
34 cable to needed repairs to any of the pavements of the city, and  
35 to the substitution of new pavements for any which may have  
36 been heretofore or which may be hereafter laid and completed,  
37 and which may be deemed insufficient.

#### *Street Paving.*

Sec. 42. The board of commissioners shall have authority  
2 to provide that any street or alley or portion thereof, between  
3 the curbstones, shall be macadamized, or paved with bricks, cob-  
4 blestones, or other suitable material, upon the lowest and best  
5 terms obtainable, and the whole cost of such macadamizing or  
6 paving, from curb to curb of such street or alley, shall be as-

7 sessed to the owners of the land or lots or fractional parts of  
8 lots, fronting or abutting on such street or alley, that is to say,  
9 the property owners on each side of said street or alley to be  
10 assessed one-third each and the city one-third of the costs of  
11 said improvements, to each property owner a sum proportionate  
12 to the distance, or extent in feet by him owned, and one-third  
13 of the sum so assessed shall be paid to the city by each property  
14 owner within thirty days after the completion of the work and  
15 the remainder in two equal installments of six and twelve months  
16 thereafter with interest thereon, or at such other times as the  
17 board of commissioners may prescribe. The expense of macadam-  
18 izing or paving at the intersections of streets and alleys shall be  
19 defrayed by the city.

20 After the said improvements have been made the board of  
21 commissioners shall cause a notice to be published for one week  
22 in a newspaper of said city, showing the owners of the property  
23 and the number of feet fronting on said improvements, as well  
24 as the time and the place when and where the said board of com-  
25 missioners will proceed to fix said assessment as above provided,  
26 and giving notice to any person having any interest in said prop-  
27 erty to appear and show cause, if any they can, why such assess-  
28 ment should not be made; and the board of commissioners may in  
29 making said assessments, consider the petition of any person or cor-  
30 poration relative to the inequality of said assessment, and may  
31 equalize and adjust the same. A copy of the list of such assess-  
32 ments showing name of owner, number of lot, or parcel of land,  
33 amount of assessment, attested by the mayor and clerk, shall be  
34 filed in the office of the clerk of the county court of Greenbrier  
35 county, and recorded in the judgment lien docket in said office  
36 within thirty days after the assessments are approved by the said  
37 board of commissioners, otherwise the lien of said assessment shall  
38 be void as to any purchaser of said real estate, for value and with-  
39 out notice, who shall have purchased such real estate, and the  
40 clerk shall execute and deliver on behalf of said city a release  
41 of such lien, upon the payment in full of said assessment. The  
42 assessment so made to any owner of real estate shall constitute  
43 a lien on such estate; and like proceedings may be had and taken  
44 to enforce such lien, or to recover from such owner the amount of  
45 such assessment, or of any installment thereof, as those provided

46 for in the preceding section providing for the laying of pave-  
47 ments.

*Sewers.*

Sec. 43. The board of commissioners of said city of Ron-  
2 ceverte shall have the authority under the provisions of ordi-  
3 nances adopted by the said board of commissioners of said city  
4 to cause all necessary sewers to be constructed in any or all of  
5 the streets, alleys and public grounds of said city upon the lowest  
6 and best terms to be obtained, and shall fix a uniform assess-  
7 ment against the owners of the real estate, lots or parcels of  
8 ground within the said city, abutting or abounding on the streets,  
9 alleys or public grounds, in which sewers are so constructed,  
10 which assessment shall not exceed seventy-five cents for each  
11 front foot of land, lot or parcel of ground, fronting or abutting  
12 on the street, alley or public ground in which such sewer is con-  
13 structed. The cost of constructing such sewers in the intersec-  
14 tions of such streets or alleys is to be paid by the city. The one-  
15 half of said assessment shall be paid within thirty days after  
16 said sewer is completed and ready for use, and the remaining  
17 one-half shall be paid within six months thereafter, with interest  
18 at the rate of six *per centum per annum* on the deferred amount.

19 The board of commissioners may by ordinance compel the  
20 owners of lots or parcels of ground, fronting or abutting on any  
21 street or alley in which such sewer is constructed, under the  
22 supervision of such officer as the board of commissioners may  
23 designate, to connect any residence, store, or warehouse, factory  
24 or other building occupied by persons as a place of residence or  
25 for labor, with such sewer within thirty days after its comple-  
26 tion, and may inflict fines and penalties for any violation of such  
27 ordinance.

28 The intersections of all streets and alleys shall be provided  
29 with sewers at the expense of the city, but all connections to  
30 sewers in street or alley to be made by property owner abutting  
31 on said street wherein sewer is constructed. The sums of money  
32 thus assessed for sewer connection shall be a lien on the lots,  
33 tracts or parcels of land upon which they are assessed, which  
34 lien may be enforced by a suit in equity in the circuit court of  
35 Greenbrier county to subject the said real estate to the payment  
36 of the sum so assessed against it as herein provided, in the same  
37 manner that judgment liens are enforced.

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38       The board of commissioners shall cause a notice to be pub-  
39 lished for one week in some newspaper published in the city,  
40 showing the owners of the real estate and number of feet owned  
41 by each, fronting on said improvement, as well as the time and  
42 place when and where the said board of commissioners will pro-  
43 ceed to fix said assessments as herein provided, and giving notice  
44 to any person having an interest in the property so assessed to  
45 appear and show cause, if any he can, why such assessment  
46 should not be made; and the board of commissioners may, in  
47 making or reviewing said assessment consider the petition of  
48 any person, or corporation, affected thereby, relative to the ine-  
49 quality of said assessment and may equalize and adjust the same.

50       A copy of the list of such assessments, showing the name  
51 of owner, number of lot, or parcel of land, and amount of assess-  
52 ment, attested by the mayor and clerk, shall be filed in the office  
53 of the clerk of the county court of Greenbrier county and re-  
54 corded in the judgment lien docket in said office within thirty  
55 days after the said assessments are approved by the board of  
56 commissioners, otherwise the lien of said assessment shall be  
57 void as to any purchaser of said real estate, for value and with-  
58 out notice, who shall have purchased such real estate, and the  
59 clerk shall execute and deliver on behalf of said city a release of  
60 such lien, upon the payment in full of said assessment.

61       The funds derived by the said city from assessments for  
62 construction of sewers, as herein provided, shall be used by said  
63 city for sewer construction only, and the clerk and treasurer  
64 shall keep separate accounts of receipts and disbursements of  
65 said fund, and shall make separate report with respect to said  
66 fund from time to time as the board of commissioners may direct  
67 or require; and the said city clerk and treasurer shall be liable  
68 to said city on their official bonds for the payment of all money  
69 which may come into their hands, respectively, by virtue hereof,  
70 and shall pay over the same upon the proper order of the board  
71 of commissioners.

#### *Assessment and Levy.*

Sec. 44. All assessments of property for purposes of taxation,  
2 the preparation for and levy of all taxes and levies, general or  
3 special, shall be ascertained, advertised within the said city, and  
4 levied, and in all respects conform to the provisions of chapter

5 nine of the acts of one thousand nine hundred and eight, and any  
6 amendments which may be made thereto; any provision, section  
7 or clause in this act to the contrary notwithstanding.

8 An annual capitation tax of one dollar may be levied upon  
9 each male inhabitant of said city who has attained the age of  
10 twenty-one years, and the said capitation tax may be collected at  
11 the same time that the assessment is made.

### *Financial Statement.*

Sec. 45. In the month of August in each year the board of  
2 commissioners shall cause to be published in two newspapers of  
3 opposite politics, if such there be, published within the city, and  
4 if there be only one newspaper published within the city, then in  
5 that newspaper, a sworn statement of the financial condition of  
6 said municipal corporation; said statement shall contain an  
7 itemized account of the receipts and expenditures of the city  
8 showing the source from which all the money was derived, and  
9 the name of a person to whom an order was issued, together with  
10 the amount of each order, and why such order was issued, ar-  
11 ranging the same under distinct heads, and also a specific list of  
12 the debts of the city, showing the purpose for which any debt was  
13 contracted, the time it became due, the rate of interest up to what  
14 time the interest thereon has been paid, the amount of money in  
15 the treasury at the end of the preceding year and debts contracted  
16 during the preceding year. Such statement shall be prepared by  
17 the city every twelve months for the year ending June thirtieth,  
18 and shall then be published according to the provisions of this  
19 section. The said statement shall be sworn to by the clerk, by the  
20 mayor and members of the finance committee of the board of  
21 commissioners.

### *Bonds—Additional Levy.*

Sec. 46. The municipal authorities of said city of Ronceverte  
2 shall have power and authority to issue and make sale of the bonds  
3 of said city as provided by law and apply the proceeds thereof to  
4 the payment for any general improvement therein or to any debt  
5 or obligation of the said city, as provided by law.

### *Terms of Officers.*

Sec. 47. The terms of all officers of the said city, except the  
2 members of the board of commissioners, who are elected by the

3 people for terms of three years after the first election held under  
4 this act, shall be for one year, unless otherwise provided herein  
5 and except that all officers appointed or elected by the board of  
6 commissioners are subject to removal at any time for cause.  
7 Terms of office shall begin on the first day of July of each year  
8 and end on the thirtieth day of June, and until their successors  
9 are elected and qualified.

*Penalties.*

Sec. 48. If the board of commissioners fail or refuse to  
2 perform the duties hereinbefore or hereinafter named, every mem-  
3 ber of such board of commissioners and the clerk thereof con-  
4 curring in such failure or refusal, shall be guilty of misdemeanor,  
5 and upon conviction thereof, shall be fined not less than ten  
6 dollars nor more than one hundred dollars for each offense.

*City Manager—Alternative.*

Sec. 49. If, at the end of any fiscal year, the board of com-  
2 missioners may deem it in the interest of economy and efficiency  
3 in the administration of the city's affairs, they may appoint,  
4 employ, or elect a city manager, at a compensation to be fixed  
5 by said board of commissioners, and such city manager shall be  
6 the administrative head of the municipal government under the  
7 direction and supervision of the board of commissioners; he may  
8 be given such powers and duties as are by this act conferred upon  
9 any or all other officials appointed by the board of commissioners,  
10 and such other powers and duties as the board of commissioners  
11 may prescribe, which are not in conflict with the constitution and  
12 laws of this state; he shall be required to give such bond as is by  
13 this act required of the city clerk, and in the performance of any  
14 of the duties of the city clerk as prescribed herein, the said city  
15 manager shall be held to all of the requirements and provisions  
16 pertaining to such duties hereunder.

17 To carry into effect this section the board of commissioners  
18 may discontinue the office of city clerk, and redistribute the duties  
19 hereunder conferred upon the city clerk and other officials, and  
20 provide such assistance to the city manager as may by the board  
21 of commissioners be deemed necessary.

22 This section shall be without force and effect, until such  
23 time as the board of commissioners, as provided herein, shall  
24 declare by ordinance and proclamation that it shall go into effect.

Sec. 50. All ordinances and resolutions in force at the time of the taking effect of this act, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

Sec. 51. Persons holding office under the municipal government of the city of Ronceverte as at present constituted, shall continue in office and in the performance of their respective duties until the day on which this act shall become effective, and thereafter so long as their services shall be required, pending a reorganization of the said municipal government to conform to the requirements of this act.

Sec. 52. All vested rights of the city shall continue to be vested and shall not in any manner be affected by the passage of this act, nor shall any right or liability or pending suit or prosecution, either in behalf of or against the city, be in any manner affected by the passage of this act. All contracts entered into by the city or for its benefit prior to the taking effect of this act, shall continue in full force and effect. All public work begun prior to the taking effect of this act shall be continued and perfected hereunder.

Sec. 53. If any section or part of a section of this act shall be found to be invalid, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section unless such other section or part is clearly dependent for its operation upon the section or part so held invalid.

Sec. 54. This act shall for the purpose of nominating and electing officers and for all purposes connected therewith take effect from the time of passage, and for all other purposes shall take effect on the first day of the following July, one thousand nine hundred and nineteen.

Sec. 55. Chapter nine of the acts of the legislature of one thousand nine hundred and nine entitled "An act to create the municipal corporation of the city of Ronceverte," and all other acts and parts of acts coming within the purview of this act and inconsistent herewith, are hereby repealed.

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## House Bill No. 137

AN ACT to amend and re-enact chapter two of the acts of the year one thousand nine hundred and five, and chapter one of the acts of the year one thousand nine hundred and seven, of the legis-

lature of West Virginia, amending the charter of "the city of Benwood," in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof.  
*Be it enacted by the Legislature of West Virginia:*

That chapter two of the acts of the year one thousand nine hundred and five, and chapter one of the acts of the year one thousand nine hundred and seven, of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

Section 1. The inhabitants of Marshall county in this state, 2 now and hereafter residing within the boundaries prescribed in 3 the next section hereof, shall be, and they are hereby constituted 4 a body politic and corporate, by and under the name of "the city 5 of Benwood;" and as such, and by and in that name, shall have 6 perpetual succession, and a common seal, and may sue and be 7 sued, contract and be contracted with, purchase, lease, hold, and 8 use, real and personal property necessary for corporate purposes, 9 and shall have all the rights, powers and privileges, belonging 10 or appertaining to municipal corporations in this state.

*Boundaries.*

Sec. 2. The boundaries of said city shall be as follows: Beginning at a point on the west side of the Ohio river in the state line, where the line between Ohio and Marshall counties intersects the same; thence with the Ohio and Marshall county lines crossing the river; south eighty-five degrees east to a stake on the hill side; thence south twenty-four degrees twenty-five minutes west one hundred and forty-two and five tenth poles to a point in the middle of Bogg's run located south forty-seven degrees forty-five minutes east nine and one-tenth poles from a notch cut in the face and top of the east wing of the abutment of the turnpike bridge over said run; thence following a line which passes through the center of the top (at its north end) of the river hill south of the run, south twelve degrees forty-five minutes west fifty-three fifteen hundredths poles to a point north of and near the top of the said hill; thence south thirty-seven degrees west thirty-three twenty-two hundredths poles to a stake; thence south twenty-seven degrees thirty minutes west forty-three poles to a stake; thence south fourteen degrees west seventeen poles to a stake; thence south ten degrees east thirty-four five tenths poles to a white oak; thence south three degrees thirty



21 minutes west thirty-five poles to a stake; thence south eight de-  
22 grees east twelve poles to a stake; thence south three degrees west  
23 fifty-five five tenth poles to a stake; thence south two degrees east  
24 seventy-three poles to a red oak; thence south eleven degrees  
25 thirty minutes east twenty-four poles to a stake; thence south  
26 two degrees thirty minutes west twenty-five five tenths poles;  
27 thence south twenty-four degrees east thirty-four twenty-five hun-  
28 dredth poles to a stake; thence south eleven degrees east thirty-  
29 eight poles to a stake; thence south thirty degrees thirty minutes  
30 east fifty-one five tenths poles to the south east corner of the  
31 original corporation on top of the river hill; thence with the top  
32 of the ridge of the said hill, south one degree west nine hundred  
33 thirty feet to a stake; thence south thirty-seven degrees forty-five  
34 minutes west five hundred sixty feet to a double honey locust tree  
35 on the south point of the hill; thence south twenty-three degrees  
36 thirty minutes west three hundred ninety-eight feet to a honey  
37 locust on the point of the hill above the hill road; thence leaving  
38 the ridge south twenty-one degrees fifteen minutes east three hun-  
39 dred eighty-four feet to a stake on the north side of McMechen's  
40 run located south twenty-one degrees fifteen minutes east seven  
41 five tenth feet from a large sycamore standing on the said bank;  
42 thence down the run south seventy-one degrees fifteen minutes  
43 west one hundred thirty-two feet; south seventy degrees fifteen  
44 minutes west, ninety-two feet; south sixty-eight degrees forty-five  
45 minutes west two hundred nine five tenths feet; north eighty-five  
46 degrees forty-five minutes west one hundred sixteen feet; south  
47 seventy-four degrees forty-five minutes west four hundred feet;  
48 south fifty-two degrees west one hundred eight feet; south eighty-  
49 six degrees west one hundred eighty-five feet; south eighty-eight  
50 degrees thirty minutes west two hundred forty-seven feet; north  
51 sixty-four degrees thirty minutes west one hundred seven feet;  
52 north seventy-eight degrees west two hundred twelve feet; south  
53 eighty-nine degrees fifteen minutes west one hundred seventy-nine  
54 five tenths feet; north eighty-four degrees fifteen minutes west  
55 one hundred forty feet; south eighty-six degrees fifteen minutes  
56 west one hundred forty-eight five tenths feet; west ninety-one feet  
57 south sixty-nine degrees thirty minutes west one hundred seventy-  
58 eight feet to the mouth of said McMechen's run; thence crossing  
59 the Ohio river south eighty-one degrees fifteen minutes west to a  
60 point in the mouth of Pinch run, at its intersection with the state

61 line; thence up the river with the said state line, to the place of  
62 beginning.

### Wards.

Sec. 3. The said city shall be divided into not less than  
2 five, nor more than seven wards, but until the first election after  
3 this act goes into effect, it shall remain divided into five wards  
4 as at present. A change in the wards may be made by the council  
5 by ordinance, but in making any such change regard must be had  
6 to the compactness of the territory of every ward, to an equalizing  
7 of the number of inhabitants of the several wards, and no ordi-  
8 nance shall be passed changing the ward which effects a gerry-  
9 mander of territory, or which does not more nearly equalize the  
10 number of inhabitants in the several wards. But a change in  
11 the number of councilmen or in the representation from any  
12 ward, shall only be made so as to affect the council to be elected  
13 to succeed the council making such change. Until otherwise pro-  
14 vided by ordinance, the number of councilmen shall remain as  
15 at present.

### Officers.

Sec. 4. The officers of said city shall be a mayor, chief of  
2 police, who shall be *ex-officio* sanitary officer and member of the  
3 city board of health, clerk, who shall be *ex-officio* collector, street  
4 commissioner, treasurer, health officer, city solicitor, city engineer,  
5 and two councilmen from each ward. The mayor and chief of  
6 police shall be elected by the qualified voters of said city. The  
7 councilmen shall be elected by the qualified voters of their re-  
8 spective wards. The other officers named shall be appointed by  
9 the council of said city. No person shall be eligible for any office  
10 in said city, unless he is a qualified voter thereof, nor unless he  
11 has resided therein for at least one year before his election; and  
12 in the case of a councilman, he shall be a *bona fide* resident of  
13 the ward from which he is elected, and the removal of a council-  
14 man from the ward in which he is elected, shall vacate his office.  
15 All officers of said city, except city solicitor, city engineer, and  
16 treasurer, must be residents therein and be entitled to vote.

### Municipal Authorities.

Sec. 5. The municipal authorities of said city shall consist  
2 of the mayor and councilmen, who together shall form a common-

3 council, and all the corporate powers of said corporation shall be  
4 exercised by said council, or under its authority, except where  
5 otherwise provided by this act.

*Elections.*

Sec. 6. The first election hereunder shall be held on the first  
2 Tuesday in April, one thousand nine hundred and twenty, and  
3 biennially thereafter. Every person who has been a *bona fide*  
4 resident of the said city for one year next preceding any election,  
5 and otherwise a qualified voter, under the constitution and laws  
6 of the state, shall be entitled to vote at such election, in the ward  
7 in which he resides. The elections shall be held, conducted, re-  
8 turned, and the results ascertained, certified and determined, under  
9 such rules and regulations as may be prescribed by the council,  
10 which shall not be inconsistent with the general laws of the state  
11 governing municipal elections, and shall conform as nearly as  
12 practicable to such laws. Contested elections shall be heard and  
13 determined by the common council, and the proceedings therein  
14 shall conform as nearly as may be to similar proceedings in the  
15 case of county and district officers. The council shall be the judge  
16 of the election, returns and qualifications of its members. In  
17 case two or more persons receive an equal number of votes for  
18 the same office, the common council shall decide by vote, which  
19 of them shall be returned elected, and shall make their return  
20 accordingly.

*Terms of Officers.*

Sec. 7. The term of office of the mayor and chief of police  
2 shall begin on the first day of May next succeeding their election  
3 and shall be for the term of two years, and until their successors  
4 shall have been elected and qualified. The clerk, treasurer, solici-  
5 tor, health officer, street commissioner and city engineer, shall  
6 be appointed by the council and shall hold their office during the  
7 pleasure of the council. Any former incumbent shall be ineligible  
8 for a second appointment unless he shall have fully settled up the  
9 business of his former term or terms. At the first election pro-  
10 vided for in section six of this act there shall be elected a mayor  
11 and chief of police, whose term of office shall begin on the first  
12 day of May next succeeding their election and shall be for the  
13 term of two years, and until their successors are elected and quali-

14 fied, and two councilmen from each ward, whose term of office  
15 shall begin on the first day of May next succeeding their election,  
16 the one thereof receiving the highest number of votes shall hold  
17 his office for the term of four years, and the one receiving the  
18 next highest number of votes shall hold his office for the term of  
19 two years, and until their successors are elected and qualified.  
20 On the same day in each succeeding two years, one councilman  
21 from each ward shall be elected and shall hold office for four  
22 years from the first day of May next succeeding their election  
23 and until their successors are elected and qualified.

Sec. 8. The council of said city shall have the right to fix  
2 the compensation for the members thereof, which compensation,  
3 however, shall not exceed sixty dollars per year to each member.

Sec. 9. Every person elected or appointed to any office in  
2 said city shall within twenty days after his election or appoint-  
3 ment and before entering upon the discharge of the duties thereof,  
4 take and subscribe the oath of office prescribed by law for officers  
5 generally, which may be done before the mayor or clerk of said  
6 city, or before any person authorized by law to administer oaths;  
7 and the same, together with the certificate of the officer adminis-  
8 tering the oath, shall be filed with the clerk of said city.

Sec. 10. All officers in office when this act takes effect shall  
2 hold their respective offices during their present term and until  
3 their successors are elected and qualified, unless the office be  
4 abolished or be vacated by death, resignation, removal, or other-  
5 wise, but their duties shall be as provided in this act.

6 Council shall have the power to fill all vacancies in office,  
7 whether such vacancies occur by death, resignation, removal, or  
8 otherwise, and to fill any new offices created by this act, until the  
9 next general election, hereunder.

#### *Council.*

Sec. 11. The council shall prescribe the powers and define  
2 the duties of all officers by it appointed, except so far as the  
3 same are by this act defined; shall fix their compensation, and may  
4 require and take from them respectively, bonds payable to the city  
5 in its corporate name with such sureties and in such penalties as  
6 may be deemed proper, conditioned for the faithful performance  
7 of their duties.

Sec. 12. The council shall require and take from all officers

2 elected or appointed as aforesaid, whose duty it shall be to receive  
3 funds, assets or property belonging to the city, or have charge of  
4 the same, such bonds, obligations or other writings as may be  
5 deemed necessary and proper to secure the faithful performance of  
6 their several duties. All bonds, obligations or other writings taken  
7 in pursuance of any of the provisions of this act shall be made  
8 payable to "The City of Benwood," with such sureties and in  
9 such penalties as may be deemed proper, conditioned for the faith-  
10 ful performance of their duties and for the accounting for and  
11 paying over, as required by law, all moneys coming into their  
12 hands by virtue of their offices, and the respective persons and  
13 their heirs, executors and assigns bound thereby, shall be subject  
14 to the same proceedings on said bonds, obligations and other  
15 writings, for enforcing the conditions of the terms thereof, by  
16 motion or otherwise, before any court of competent jurisdiction  
17 held in and for the county of Marshall, that collectors of county  
18 levies and other sureties are or shall be subject to on their bonds  
19 for enforcing the payment of the county levies.

Sec. 13. The council shall have the authority to remove from  
2 office any elected officer of the city for misconduct or neglect of  
3 duty, by an affirmative vote of three-fourths of the members of the  
4 council, but only after reasonable notice to such officer, and a  
5 hearing of the charges preferred; and any vacancy in office, how-  
6 ever occasioned, may be filled by the council for the unexpired  
7 term.

Sec. 14. The council shall fix the place and time of holding  
2 its regular meetings; may provide for special and adjourned meet-  
3 ings; shall have power to compel the attendance of its members;  
4 and may prescribe rules and regulations, not inconsistent here-  
5 with, for the transaction of business and for its own guidance and  
6 government. The council shall be presided over at its meetings  
7 by the mayor, or in his absence by the clerk, or in the absence  
8 of both the mayor and clerk, then by one of the councilmen select-  
9 ed by a majority of the council present, who may vote on any  
10 question as member of the council. The mayor shall have a vote  
11 only in case of a tie and in no case shall the presiding officer have  
12 more than one vote. A majority of the council shall be necessary  
13 to constitute a quorum for the transaction of business. No mem-  
14 ber of the council shall vote upon or take part in the consideration

15 of any proposition in which he is or may be interested otherwise  
16 than a resident or taxpayer.

Sec. 15. The council shall cause to be kept by the clerk in a  
2 well bound book to be called the "minute book" an accurate record  
3 of all its proceedings, ordinances, acts, orders and resolutions, and  
4 in another to be called the "ordinance book" accurate copies of all  
5 the ordinances adopted by the council, both of which shall be  
6 fully indexed and open to the inspection of any one required to  
7 pay taxes to the city, or who may be otherwise interested. All  
8 oaths and bonds of officers of the city and all papers of the council  
9 shall be endorsed, filed and securely kept by the clerk, except the  
10 bond of the clerk, which shall be filed with the mayor. All printed  
11 copies of such ordinances purporting to be published under au-  
12 thority of the council and transcripts of such ordinances, acts,  
13 orders and resolutions, certified by the clerk under the seal of  
14 the city, shall be deemed *prima facie* correct, when sought to be  
15 used as evidence in any court or before any justice.

Sec. 16. At each meeting of the council, the proceedings of  
2 the last meeting shall be read, and if erroneous, corrected, and  
3 signed by the presiding officer for the time being. Upon the call  
4 of any member, the yeas and nays on any question shall be taken  
5 and recorded in the minute book.

Sec. 17. No ordinance or by-law, and no resolution or  
2 measure for the expenditure of money other than to defray the  
3 current and incidental expenses of the city, shall be deemed passed  
4 or adopted unless it shall have been fully read at two consecutive  
5 meetings of the council, and shall have received a majority of  
6 the votes of the members present, when it shall stand and be  
7 declared adopted and not otherwise.

Sec. 18. The council of said city shall have power to lay off,  
2 vacate, close, open, alter, grade and keep in good repair the  
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains  
4 and gutters therein for the use of the citizens or of the public,  
5 and to improve and light the same, and to keep the same free  
6 from obstructions of every kind; to regulate the width of pave-  
7 ments and sidewalks on the streets and alleys, and to order the  
8 pavements, sidewalks, footways, drains and gutters to be kept  
9 in good order, free and clean, by the owners or occupants of the  
10 real property next adjacent thereto; to establish and regulate  
11 markets, prescribe the times of holding the same, provide suit-

12 able and convenient buildings therefor, and prevent the fore-  
13 stalling or regrating of such markets; to prevent injury or an-  
14 noyance to the public or to individuals from anything dangerous,  
15 offensive or unwholesome; to prohibit or regulate slaughter-  
16 houses and soap factories within the city limits; or the exercise  
17 of any unhealthy or offensive business, trade or employment;  
18 to abate all nuisances within the city limits, or to require and  
19 compel the abatement or removal thereof, by or at the expense  
20 of the person causing the same, or at the expense of the owner  
21 or occupant of the ground on which they are placed or found;  
22 to cause to be filled up, raised or drained by or at the expense  
23 of the owner, any city lot or tract of land covered or subjected  
24 to be covered by stagnant water; to prevent horses, hogs, dogs,  
25 cattle, sheep, or other animals and fowls of all kinds from going  
26 or being at large in such city, and as one means of prevention,  
27 to provide for impounding and confining such animals and fowls,  
28 and upon failure to reclaim, for the sale thereof; to protect  
29 places of divine worship and to preserve order in and about the  
30 premises where and when such worship is held; to regulate the  
31 keeping of gunpowder and other inflammable or dangerous sub-  
32 stances; to provide and regulate the building of houses or other  
33 structures, and for the making and maintaining of division  
34 fences by the owners of adjoining premises, and for the proper  
35 drainage of city lots or other parcels of land, by or at the expense  
36 of the owner or occupant thereof; to provide against damage or  
37 danger by fire; to punish for assaults and batteries; to arrest,  
38 convict and punish any person for gambling or keeping gaming  
39 tables, commonly called A, B, C, or E, O, table or faro bank or  
40 keno table, or table of like kind, under any denomination,  
41 whether the game or table be played with cards, dice or other-  
42 wise, or shall be a partner, or concerned in interest, in the keep-  
43 ing or exhibiting such table or bank, or keeping or maintaining  
44 any gaming house or place, or betting or gambling for money  
45 or anything of value; to suppress houses of ill-fame and to  
46 arrest and punish persons loitering in, or visiting them, or loiter-  
47 ing at public places or upon the streets; to prevent lewd and  
48 lascivious conduct; the sale or exhibition of indecent pictures  
49 or other representations; the desecration of the Sabbath day;  
50 profane swearing; to protect the persons of those residing or  
51 being within said city; to appoint when necessary or advisable

52 a police force, permanent or temporary, to assist the chief of  
53 police in the discharge of his duties; to build or purchase, or  
54 lease and to use, a suitable place within or near said city for  
55 the safe keeping or punishment of persons charged with or con-  
56 victed of the violation of ordinances; to provide for the employ-  
57 ment of persons convicted of the violation of ordinances or who  
58 may be committed in default of the payment of fines, penalties  
59 or costs, and who are otherwise unable to discharge the same,  
60 by putting them to work for the benefit of the city, and to use  
61 such means to prevent their escape while at work, as they may  
62 deem expedient; to erect, or authorize or prohibit the erection  
63 of gas works, electric light works or water works within the  
64 city limits; to prevent injury to such works, or the pollution of  
65 any gas or water used or intended to be used by the public or by  
66 individuals, and to do all things necessary to adequately supply  
67 said city and the inhabitants thereof with pure, healthful and  
68 wholesome water; to use, generate, distribute, sell and control  
69 electricity and gas for heat, light and power and to furnish lights  
70 for the streets, houses, buildings, stores, and other places  
71 in and about said city; to provide a sewerage system  
72 for said city; to provide for and regulate the weighing and  
73 measuring of hay, coal, lumber and other articles sold or kept  
74 or offered for sale, within said city; to establish and construct  
75 wharves and docks, and to repair, alter or remove any landing,  
76 wharf, or dock which has been or shall be so constructed and  
77 collect rates and charges for the use thereof; to regulate the  
78 running and speed of engines and cars and all kinds of vehicles  
79 within the said city; to organize one or more fire companies and  
80 provide necessary apparatus, tools, implements, engines or any  
81 of them for their use, and in their discretion to organize a paid  
82 fire department; to make regulations with respect to the erec-  
83 tion and location of all pipes, conduits, telephone, telegraph, and  
84 electric light or other poles within said city, and the extension  
85 of any wires, lines and poles by any individuals or corporation;  
86 to create by ordinances such committees or boards, and delegate  
87 such authority thereto as may be deemed necessary or advisable;  
88 to provide for the annual assessment of the taxable property  
89 therein, including dogs kept in said city, and to provide a reve-  
90 nue for the city for municipal purposes, and to appropriate such  
91 revenue to its expense, and generally to take such measures as



92 may be deemed necessary or advisable to protect the property,  
93 public and private, within the city; to preserve and promote the  
94 health, safety, comfort and well being of the inhabitants thereof.

95 The council of said city shall have power and authority to  
96 control and regulate the construction and repairs of all houses  
97 and other buildings within the said city; to provide for the grant-  
98 ing of building permits; to cause the removal of unsafe walls  
99 or buildings; and may prohibit the erection on any such street,  
100 or in any such square, of any building, or of any addition to  
101 any building unless the outer walls thereof be made of brick  
102 and mortar or other fire-proof material; and to provide for the  
103 removal of any building or addition which shall have been erect-  
104 ed contrary to such prohibition, at the expense of the owner or  
105 owners thereof.

106 The said council of said city shall have any and all additional  
107 power and authority granted to cities, towns and villages by  
108 chapter forty-seven of the code, or any additional powers here-  
109 after granted to municipal corporations by the legislature of  
110 this state.

Sec. 19. The council of said city shall have the power to  
2 contract with persons, private or municipal corporations, for  
3 furnishing to said city, through and over the streets, alleys and  
4 public grounds of said city, water for domestic, fire and other  
5 purposes, for use by the inhabitants of said city and persons and  
6 corporations in the vicinity thereof, and said city by its council  
7 may provide for the sale of said water to the consumer thereof  
8 upon such terms and conditions as it may deem proper, *provided*,  
9 *however*, that no contract for such water shall be made by the  
10 city for a longer period than ten years.

#### *Franchises.*

Sec. 20. Franchises may be granted by the city council to  
2 persons or corporations allowing such occupancy of portions of  
3 the streets and alleys as may be necessary for works of public  
4 utility and service, but no such franchise shall hereafter be grant-  
5 ed except under the following restrictions and conditions: No  
6 ordinance shall be passed granting any franchise for the use of  
7 any of the streets or alleys of said city for any of the purposes  
8 above named, until the same shall have been filed with the clerk  
9 at least thirty days prior to the time when it is to be acted upon

10 by the council, and notice of such application, stating the object  
11 of such franchise, and when the same will be considered by the  
12 council, shall have been given thirty days' notice in some news-  
13 paper of general circulation published in said city.

14 Nor shall such franchise be granted within thirty days after  
15 the application has been filed, nor until an opportunity has been  
16 given any citizen or corporation interested in the granting or re-  
17 fusing of said franchise to be heard.

18 Nor shall any franchise be hereafter granted by council for  
19 a longer period than fifty years; provided, that the council shall  
20 have the power to renew any such franchise for the term of fifty  
21 years when the same shall have expired. No franchise here-  
22 after granted for a longer term than fifty years shall be of any  
23 force or validity. No grant of any such franchise shall be made  
24 without at the time of making it providing that the grantee, its  
25 successors or assigns, shall indemnify the city against all damages  
26 caused by the construction and maintenance of such works.

27 Any person or corporation to whom a franchise has been or  
28 may hereafter be granted by said city, who shall fail or refuse  
29 to comply with the conditions of the ordinance granting the same  
30 within thirty days after receiving notice of such failure, shall  
31 forfeit all rights and privileges conferred by said franchise un-  
32 less said failure be waived by resolution of the council of said city.

Sec. 21. To carry into effect these enumerated powers and  
2 all others by this act or by general law conferred, or which may  
3 hereafter be conferred upon the said city or its council or any of  
4 its officers, the said council shall have and possess full authority  
5 to make, pass and adopt all needful ordinances, by-laws, orders  
6 and resolutions not repugnant to the constitution and laws of the  
7 United States or of this state; and to enforce any or all of such  
8 ordinances, by-laws, orders or resolutions by prescribing for a  
9 violation thereof, fines and penalties and imprisonment in either  
10 the county jail of Marshall county, or the city prison if there be  
11 one; but no fine shall exceed one hundred dollars, and no term of  
12 imprisonment shall exceed ninety days. Such fines and penalties  
13 shall be imposed and recovered, and such imprisonment inflicted  
14 and enforced, by and under the judgment of the mayor of said  
15 city, or in case of absence or inability to act, of the clerk of said  
16 city, or in case of absence or inability to act of both of said officers,

17 of one of the councilmen, appointed for that purpose by the  
18 council.

19 Said city is hereby authorized to work its prisoners on the  
20 public streets and other improvements of said city or to hire  
21 its prisoners to the county court of Marshall county to work on  
22 the public roads, and other improvements of said county on such  
23 terms and conditions as may be agreed upon; without making  
24 such work a part of the judgment against such prisoners, but  
25 credit shall be allowed any prisoner for the value of such work  
26 as fixed by council, and when the fine and costs are fully paid by  
27 work, the prisoner shall be discharged from custody.

*Mayor.*

Sec. 22. The mayor shall be the chief executive officer of the  
2 city and shall see that the orders, by-laws, ordinances and regula-  
3 tions of the council thereof are faithfully executed; he shall be  
4 *ex-officio* a justice and conservator of the peace within the city  
5 and shall within the same have, possess and may exercise, all the  
6 powers and perform all the duties whether in civil or criminal  
7 proceedings, vested by law in a justice of the peace. Any sum-  
8 mons, warrant or other process, issued by him, may be executed  
9 at any place within the county; he shall have power during the  
10 recess, of the regular meetings of council to appoint special po-  
11 lice officers when he shall deem it necessary, and it shall be his  
12 duty to see that the peace and good order of the city are pre-  
13 served, and that persons and property therein are protected; and  
14 to this end he may arrest and detain, or cause the arrest and  
15 detention, of all riotous and disorderly persons before taking  
16 other proceedings in the case; he shall from time to time recom-  
17 mend to the council such measures as he may deem needful for the  
18 welfare of the city; he shall not receive any money due or be-  
19 longing to the state or corporation or to individuals, unless and  
20 until he shall have given the bond and security required of a  
21 justice of the peace by chapter fifty of the code of West Vir-  
22 ginia; and all the provisions of said chapter relating to moneys  
23 received by justices shall apply to moneys received by him in  
24 like cases.

25 The mayor shall receive a salary of not less than five hun-  
26 dred nor more than eight hundred dollars per annum; such  
27 salary shall be in lieu of the fees which would otherwise accrue  
28 to him in proceedings for the enforcement of ordinances, but all

29 such fees shall be collected when practicable, and accounted for  
30 to the city, and he may tax such costs against any person or cor-  
31 poration found guilty of the violation of any ordinance of the  
32 city, as are provided to be taxed and recovered by justices of said  
33 county in criminal cases.

34 The process in proceedings to enforce any ordinances pre-  
35 scribing a fine or imprisonment, or a fine and imprisonment, for  
36 the violation thereof, shall be a summons in the name of the city  
37 of Benwood as plaintiff directed to the chief of police, to one of  
38 the regular police officers of the city, or to any constable of any  
39 district within the said city, requiring him to summon the person  
40 accused of such violation, and who shall thereafter be designated  
41 as defendant, to appear before the mayor at the time and place  
42 therein named to make answer to such accusation and be dealt  
43 with according to law; such summons shall contain such state-  
44 ment of the facts alleged as will inform such person of the gen-  
45 eral nature of the offense against the city of which he stands  
46 charged, and except in case or arrest upon view, shall be issued  
47 only upon the complaint, on oath, of some credible person. But  
48 the mayor for good cause appearing, by endorsement on the  
49 summons, may order the person so accused to be forthwith appre-  
50 hended and brought before him for a hearing of the charge.  
51 The clerk of said city, as well as the mayor, shall have authority  
52 to receive any complaint in writing of the violation of any ordi-  
53 nance, and to sign and issue the proper summons based upon  
54 such complaint. The mayor shall have, possess and may exer-  
55 cise the power and authority belonging to a justice under sec-  
56 tion two hundred and twenty-four and two hundred and twenty-  
57 five of chapter fifty of the code of West Virginia, in summoning  
58 and enforcing the attendance and examination of witnesses, in  
59 punishing for contempt, in granting continuances, and in se-  
60 curing and enforcing the further attendance of the accused with  
61 a view to a trial or hearing. If any recognizance be taken for  
62 such further attendance, and is forfeited, the mayor may record  
63 the default, and an action be maintained in the name of the city,  
64 before the mayor, or any justice having jurisdiction, against the  
65 accused and his sureties, if any, to recover the penalty thereof.

Sec. 23. The mayor shall have the power to issue an exe-  
2 cution for any fine and costs assessed or imposed by him, for the  
3 violation of any ordinance, or he may at the time of rendering  
4 judgment therefor, or at any time thereafter and before satis-

5 faction of such judgment, by his order in writing, require the  
6 immediate payment thereof; and in default of such payment he  
7 may cause the person so in default to be apprehended and brought  
8 before him, and commit him to the jail of Marshall county or  
9 in his discretion to the prison of said city, if one shall have been  
10 provided, until the fine and costs are fully paid; but such  
11 imprisonment shall not exceed ninety days.

Sec. 24. The jail of Marshall county may be used as a lock-  
2 up for said city. The jailor of said county shall take and re-  
3 ceive into his custody any person authorized to be confined there-  
4 in by any ordinance of the city, or sentenced to imprisonment  
5 therein, or committed thereto, for non-payment of a fine or costs,  
6 or failure to enter into a recognizance by the judgment or order  
7 of the mayor, in proceedings for the violation of an ordinance;  
8 and the expense of maintaining such persons while so in confine-  
9 ment shall, if such person be found guilty of such violation, be  
10 charged to such person as part of the costs, but whether collected  
11 from such person or not, such expense shall be paid to said jailor  
12 by the city.

#### *Mayor's Docket.*

Sec. 25. A book well bound and indexed, to be denominated  
2 the "docket" shall be kept in the office of the mayor, in which shall  
3 be noted each case brought or tried by him, together with the  
4 proceedings therein, including a statement of complaint, the sum-  
5 mons, the return, the fact of appearance or non-appearance, the  
6 defense, the hearing, the judgment, the costs, and in case the  
7 judgment be one of conviction, the action taken to enforce the  
8 same; the record of such case shall be signed by the mayor or  
9 other person acting in his stead; and the original papers thereof,  
10 if no appeal be taken, shall be kept together and preserved in  
11 his office.

#### *Appeal.*

Sec. 26. In any case for the violation of an ordinance of  
2 the said city in which there is a judgment by the mayor of im-  
3 prisonment, or for fine of more than ten dollars, an appeal  
4 shall lie at the instance of the person against whom such judgment  
5 is rendered to the circuit court of Marshall county. Such appeal  
6 shall not be granted by the mayor unless, within ten days from  
7 the date of the judgment, such person shall enter into a recog-

8 nizance, with security deemed sufficient, in a penalty double the  
9 amount of fine and costs, with condition that the person appeal-  
10 ing will appear before the said court on the first day of the next  
11 term thereof, to answer for the offense against the city with which  
12 he stands charged, and not thence depart without leave of said  
13 court, and will perform and satisfy any judgment which may be  
14 rendered against him by the circuit court on appeal. The pro-  
15 visions of chapter one hundred and sixty-two of the code of West  
16 Virginia, relating to recognizance in criminal cases, shall be ap-  
17 plicable to the recognizance contemplated by this section, ex-  
18 cept where herein otherwise provided; but any money recovered  
19 thereon or by virtue thereof shall inure to the said city.

Sec. 27. If such appeal be taken the mayor shall forth-  
2 with deliver to the clerk of said court the complaint in writing,  
3 if any, the summons, a transcript of the record including the  
4 judgment, the recognizance, and any other papers belonging to  
5 the case; and such clerk shall receive and file the same, and  
6 place the case upon the trial docket of the next succeeding term  
7 of said court, and said court shall proceed to try the same in  
8 its order.

Sec. 28. If the appellant be found guilty of a violation of  
2 the ordinance in question, whether upon the verdict of a jury  
3 or otherwise, the court shall ascertain by its judgment the fine  
4 or imprisonment or the fine and imprisonment to be paid or  
5 suffered by such defendant, having regard to the punishment pre-  
6 scribed by such ordinance, and shall include in any such judg-  
7 ment the costs incurred by said city, as well in the proceedings  
8 before the mayor as those in court, including a fee to the attorney  
9 for the city of ten dollars, and the fees, if any, of the jailor  
10 or the keeper of the city prison; and the proceedings to enforce  
11 the collection of any such fine and costs, may be as provided  
12 in section ten, eleven and twelve of chapter thirty-six of the  
13 code of West Virginia, except that the writ mentioned in the  
14 tenth section may be issued by the clerk upon the order of the  
15 mayor of the city, and the notice contemplated by the eleventh  
16 section shall be given to such officer.

Sec. 29. From all judgments by the mayor in cases other  
2 than for violations of ordinances, appeals shall be allowed as in  
3 similar cases before justices.

*Clerk.*

Sec. 30. It shall be the duty of the city clerk to keep a journal of the proceedings of the council and have charge of and preserve the records, papers, contracts and other documents belonging to the city; it shall be his duty to attend the sessions of the police court and keep an accurate record of its proceedings, and all judgments shall be entered by him within twenty-four hours after the same are rendered; he shall, in case of sickness or disability of the the mayor to act, or in case of his absence from the city, or during any vacancy in the office of the mayor, perform the duties of mayor, and shall be vested with all the powers necessary for the performance of such duties; he shall also perform such other duties pertaining to the fiscal affairs of the city, or otherwise, as may be required of him by this act or by the council.

The officer whose duty it is to make out the land books for Marshall county or such other person as the council may appoint shall, annually, at such compensation as agreed upon with council, not later than the fifth day of August, furnish to the clerk, showing in separate amounts, the aggregate value of all the personal property and the aggregate value of all the real estate in the city, as ascertained from the land and personal property books of said county for the current year; upon receiving said statement the clerk shall present the same to council at a meeting to be held not later than the second Tuesday in August, for the purpose of determining the rate of levy in said city for the current year; as soon as the rate of levy shall have been fixed by council, the clerk shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of the council, fixing the rate of tax, and such officer shall thereupon extend the tax against the property situated in the city in the land and personal property books in separate columns in said books.

Sec. 31. The clerk shall when the extended copies of the assessor's books are completed and returned to the clerk of the county court, have access to the same for the purpose of making out the tax tickets of the taxes therein extended, and it shall be the duty of the clerk to make out all tax tickets, and when the same have been examined, compared and approved by the financial committee of the council and found to be correct, they shall be

8 turned over to the clerk not later than the tenth day of September  
9 following the levy, whose receipt shall be returned to the council  
10 and entered upon its records, and the clerk shall be charged there-  
11 with.

12 The clerk shall give notice that said tax tickets are in his  
13 hands for collection, stating the penalty for non-payment thereof,  
14 and the time and place where the same may be paid, which notice  
15 shall be published for fifteen days in one or more newspapers  
16 published in said city.

17 To all persons who shall pay their taxes in full before the  
18 first day of December next succeeding said levy there shall be  
19 allowed a discount of two and one-half per centum on the whole  
20 amount of the taxes so paid, and not otherwise.

21 The clerk shall immediately proceed to collect from the  
22 persons by distraint or otherwise the entire amount of the taxes  
23 with which they are severally charged therein, and remaining un-  
24 paid on the first day of January next succeeding said levy, with  
25 interest at the rate of one per centum per month from said  
26 first day of January until they are fully paid.

27 All license taxes shall be payable on the first day of July  
28 of each year, or at such time as such license may be issued.

Sec. 32. The said clerk shall receive all taxes, assessments,  
2 fines and costs and other money due the city authorized by this act  
3 or by any ordinance of the said city, to be paid to the city, and  
4 shall receipt for same; he shall keep an accurate account of all  
5 money paid to him for the use of said city, showing under sepa-  
6 rate accounts the amount received for account of taxes, sewer  
7 purposes, street pavement, licenses, fines and costs and of other  
8 matters pertaining to his office, which books shall at all times be  
9 open to the inspection of the council or to any committee ap-  
10 pointed by it for such purposes; he shall pay over promptly all  
11 money which he may receive, within five days after the receipt  
12 thereof, into the hands of the treasurer of the said city, showing  
13 an itemized statement of the several funds included in said pay-  
14 ment, taking the treasurer's receipt therefor; he shall keep his of-  
15 fice at the office of the mayor, unless otherwise ordered by the coun-  
16 cil, and shall keep his office open for the transaction of business  
17 during usual business hours, and as may be directed by council; he  
18 shall on or before the last day of March and September of each  
19 year and oftener if directed by council, present to the council a  
20 full, complete and detailed statement of all money with which



21 he is chargeable, or that has been received by him from all  
22 sources up to the time, together with a statement of all money  
23 paid to the treasurer, and proper receipts therefor, and he shall  
24 at such times return a list of all taxes, levies, assessments and  
25 other claims in his hand for collection which he shall not have  
26 been able to collect by reason of insolvency, removal, or other  
27 cause, to which list he shall append an affidavit that he has  
28 used due diligence to collect the several items therein mentioned,  
29 but has been unable to do so, and if the council should be satis-  
30 fied as to the correctness of said list, it shall allow him a credit  
31 for said claim, but may thereafter take such lawful measures to  
32 collect the same as shall be by it prescribed. The said clerk  
33 shall receive all taxes on licenses, and receipt to the party pay-  
34 ing the same by endorsement upon the permit granted by order  
35 of the council and shall charge himself with the amount received  
36 from the same, and report to the council at the next regular meet-  
37 ing thereafter, the amount so received, and pay the same over  
38 to the treasurer, taking his receipt for the same; he shall, upon  
39 the expiration of his term of office, or upon the order of council,  
40 turn over to his successor all money, books of account and other  
41 property of said city in his possession; he shall receive such sal-  
42 ary as may be fixed by the council, which shall not be less than at  
43 the rate of eight hundred dollars, nor more than fifteen hun-  
44 dred dollars per annum.

Sec. 33. The clerk of said city, before entering upon the  
2 discharge of his duties, shall execute a bond conditioned for the  
3 faithful performance of the duties of his office, and for the ac-  
4 counting for and paying over, as required by law, all money which  
5 may come into his hands by virtue of his office, with sureties satis-  
6 factory to the council, payable to "The City of Benwood", in a pen-  
7 alty of not less than five thousand nor more than ten thousand dol-  
8 lars, as the council may prescribe; he shall be custodian of all  
9 bonds, notes, certificates and other evidence of indebtedness to  
10 the city, together with all valuable papers which may be placed  
11 in his possession by the council, except that the bond of the clerk  
12 shall be deposited with the mayor; he shall be chargeable with,  
13 and it shall be his duty to collect, the city taxes, levies and as-  
14 sessments under such regulations as may be prescribed by law  
15 and the ordinances of the city, and in case the same are not  
16 paid within one month after they are placed in his hands for  
17 collection, he may distrain and sell therefor in like manner and

18 have the same power and authority possessed by the officer with  
19 the collection of state taxes.

20 If the clerk shall fail to collect, account for and pay over  
21 to the treasurer of said city any or all of the money with which  
22 he may be chargeable, belonging to the said city, according to the  
23 conditions of his bond and orders of council, it shall be lawful for  
24 the council to recover the same by action or by motion, upon ten  
25 days' notice, in the corporate name of the city, in the circuit court  
26 of Marshall county, against him and his sureties, or any or either  
27 of them, or his or their executors or administrators.

#### *Solicitor.*

Sec. 34. The city solicitor shall prosecute and defend all  
2 suits for or against the city and when requested so to do, shall  
3 give his opinion in writing to the mayor, the council, or any  
4 standing committees of council, upon such legal questions as may  
5 be referred to him, affecting the city's interest. For his services  
6 he shall receive such compensation as the council may allow.

#### *Chief of Police.*

Sec. 35. It shall be the duty of the chief of police to pre-  
2 serve order and quiet in said city, and to see that all subordinate  
3 police officers faithfully perform their official duties, and he may  
4 for good cause appearing to him, with the consent of the police  
5 committee, for neglect of duty or insubordination, suspend any  
6 such officer from duty, and report his action and his reason there-  
7 for to the next regular meeting of council for action thereon;  
8 he shall make a list of all dogs within said city liable to tax, col-  
9 lect the licenses tax thereon and pay the same to the clerk, as  
10 may be provided by ordinance of said city; he shall be present in  
11 the police court whenever the same shall be in session, and see that  
12 all its orders and requirements are properly executed; he shall  
13 with the consent of the council entered of record, but not other-  
14 wise, appointed one or more policemen, as the council may deter-  
15 mine; he shall, before entering upon the discharge of his duties,  
16 execute a bond conditioned for the faithful performance by him  
17 of the duties of his office, and for the accounting for and pay-  
18 ing over, as required by law, all money which may come into his  
19 hands by virtue of his office, with sureties satisfactory to the  
20 council, in a penalty of not less than one thousand dollars nor

21 more than five thousand dollars, as the council may prescribe; he  
22 shall receive such salary as may be fixed by council, which shall  
23 not be less than nine hundred dollars nor more than fifteen hun-  
24 dred dollars per annum.

25 Each policeman appointed as prescribed by this section shall,  
26 before entering upon the discharge of his duties, execute a bond  
27 conditioned for the faithful performance by him of the duties  
28 of his office and as is required by law, and for the accounting for  
29 and paying over, as is required by law, all money which may  
30 come into his hands by virtue of his office, with sureties satis-  
31 factory to the council, in a penalty of not less than one hundred  
32 dollars nor more than five thousand dollars, as the council may  
33 prescribe.

Sec. 36. In case a violation of any ordinance of said city  
2 is committed in the presence, or within view of the chief of police  
3 or other police officer, the offender may be forthwith apprehended  
4 and taken before the mayor, and a complaint under oath, stating  
5 such violation, there lodged and filed; and thereupon such offender  
6 may be tried and dealt with according to law, without summons.  
7 The chief of police shall execute, within the county of Marshall,  
8 when directed to him, any proper process issued by the mayor in  
9 proceedings for the enforcement of ordinances; and shall collect  
10 by levy of execution, or otherwise, and duly account for all fines  
11 and costs imposed in such proceedings. He shall also have all  
12 the rights and powers, within said city, in regard to the arrest  
13 of persons, the collection of claims, and the execution and re-  
14 turns of process, that are or may be lawfully exercised by a  
15 constable of a district within the same, and shall be entitled to  
16 the compensation therefor; and he and his sureties shall be liable  
17 to all fines, penalties and forfeitures that a constable is liable, for  
18 any dereliction of duty in office, to be recovered in the same man-  
19 ner, and in the same courts, that such fines, penalties and for-  
20 feitures are recovered against constables.

#### *Health Officer.*

Sec. 37. The health officer shall perform such duties as may  
2 be provided by any ordinance of said city, or by resolution of the  
3 council, and shall receive a salary at the rate of not more than  
4 three hundred dollars per year. He shall receive no compen-  
5 sation from said city, other than the salary herein provided.

*Treasurer.*

Sec. 38. The treasurer may be any citizen of said city, or  
2 bank or trust company of Marshall county, and shall be selected  
3 by council and may hold office during the pleasure of the council.  
4 All money due the city shall be paid to the clerk, and be by the  
5 clerk deposited with the treasurer. The money deposited with the  
6 treasurer shall be disbursed only upon orders drawn against the  
7 same, signed by the mayor and countersigned by the clerk. The  
8 treasurer shall receipt to the clerk for all money paid by him,  
9 and shall keep regular books of account, showing the amount  
10 of the several funds paid or deposited with the treasurer by said  
11 clerk, and shall make report to the council once a month or at  
12 such other times as the council may direct, showing the re-  
13 ceipts and disbursements of the funds of the city, and the treas-  
14 urer shall produce his books of account to the council or any  
15 committee of the same for inspection, upon the order of the  
16 council.

17 The treasurer shall give bond, with security to be approved by  
18 the council, in a sum of not less than five thousand dollars, with  
19 condition that the said treasurer shall account and pay over all  
20 money received for the account of said city, as may be directed by  
21 the council. The said treasurer shall receive such compensation  
22 as the council may fix, which shall not be more than at the rate of  
23 two hundred dollars per annum. Any bank or trust company  
24 of Marshall county is hereby authorized to act as treasurer of said  
25 city, and the same shall be liable for all money deposited therein.

*Street Commissioner.*

Sec. 39. The street commissioner shall perform such duties  
2 as are now, or which may hereafter be imposed upon him by any  
3 ordinance of said city, and shall receive such compensation as  
4 may be fixed by council.

*City Engineer.*

Sec. 40. The city engineer shall be selected by the council,  
2 and shall hold office during the pleasure of the council; he shall  
3 perform such duties as may be required of him by the council or  
4 provided by ordinance of said city, and his compensation therefor  
5 shall be fixed by the council.

*Fiscal Year.*

Sec. 41. The fiscal year of said city shall begin on the first of May and end on the thirtieth day of April of each year.

*Property Subject to Taxation.*

Sec. 42. All property real and personal within said city which is subject to taxation under the constitution and laws of the state of West Virginia, shall be assessed for and subject to taxation for the benefit of said city.

*Levy.*

Sec. 43. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, and which ought to be paid within one year, and it shall order at a meeting to be held by it in the month of August of each year, as provided by law, a levy of so much as will, in its judgment, be necessary to pay the same; such levy shall be upon all the real estate and personal property otherwise subject to state and county taxes, and an annual capitation tax of one dollar upon each male inhabitant of said city who has attained the age of twenty-one years; *provided*, that such levy shall not exceed the sum of fifty cents upon each hundred dollars of the ascertained value of the real and personal property.

*Lien for Taxes.*

Sec. 44. There shall be a lien on real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of such city, from the time the same are so assessed or imposed, which shall have the priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of the delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for the city taxes, interest and commission thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

*Distress for Taxes.*

Sec. 45. If any person against whom, or upon whose property any taxes shall be lawfully assessed for the benefit of said city shall not wholly pay such tax on or before the first day of January after the same shall have become due, it shall be lawful for the officer authorized to collect such tax to take reasonable distress of any personal property in said city, belonging to said delinquent, in which he or she shall have any right or interest, and sell such property, right, or interest at public auction in said city, having given ten days' notice of the time and place of sale, by advertisement posted in some public place in said city, and published or posted in such other manner as may be prescribed by ordinance of said city, if council shall by ordinance require any other or more ample advertisement, and out of the proceeds of such sale after defraying all expenses, to pay said city the said tax, or as much thereof as shall be delinquent, and return the remainder, if any, to the owner of the property so levied and sold.

*Other Remedies.*

Sec. 46. In addition to all other means for the collection thereof, all taxes, as well as all other demands due to the said city, may be recovered by any appropriate suit or proceeding in the name of the city before any justice of Marshall county, if the amount be within his jurisdiction, or in the circuit court of said county if the amount be within the jurisdiction of said court, and any judgment so obtained may be enforced as other judgment liens are enforced.

*Licenses Generally.*

Sec. 47. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required, for the keeping of hacks, carriages, carts, wagons, and other vehicles for hire within the city, and for keeping of dogs within the city, and the council may provide for the killing of all dogs, the keeping of which is not so licensed. And upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 48. The council shall prescribe by ordinance the man-

ner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the clerk of said city before delivery to the person applying therefor, and the provisions of sections thirty-nine, forty and forty-one of chapter thirty-two of the code of West Virginia, one thousand nine hundred and thirteen, relating to licenses, shall govern the city in the granting of licenses similar in character to those therein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall also expire on the thirtieth day of June next after they are granted, and all other licenses may be for such times as the council may determine.

#### *Power to Condemn.*

Sec. 49. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, landings, wharves, city prison, or other work or purposes of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

#### *Sidewalks.*

Sec. 50. After having caused a proper grade to be established at the expense of said city, the council may require sidewalks, footways, or sidewalk and gutter combined, on the streets, avenues or alleys of the said city to be paved with concrete, brick, stone or other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots, facing or abutting on such sidewalk or footway, and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment, giving said owner notice of the time the council will hear and determine any objection which may be made to such assessment, and the council shall proceed to hear such objections, if any, and if in the opinion of the council such assessment should be made, such fact, with the amount of the

19 same shall be recorded in the "minute book" of the council, and if  
20 the said assessment be not paid within thirty days from the date of  
21 such hearing the clerk shall cause a memorandum showing the  
22 name of the owner of said lot, a description of the lot, and the  
23 amount of such assessment, to be filed in the office of the clerk of  
24 the county court of Marshall county, which shall be entered of rec-  
25 ord in the judgment lien docket in his office, and the same shall  
26 constitute a lien on such property, which may be enforced by a suit  
27 in equity in the name of the city, in the circuit court of Marshall  
28 county, as other liens against real estate are enforced, and upon the  
29 payment of said assessment the clerk shall issue to the person en-  
30 titled thereto a release of said lien, *provided, however*, that reason-  
31 able notice shall first be given to said owners that they are required  
32 to construct such sidewalks or footways, and in case the owner is  
33 a non-resident of the state, the notice aforesaid may be given by  
34 publication for four successive weeks in a newspaper published in  
35 said city. The provisions of this section shall also be applicable  
36 to needed repairs to any of the pavements of the city, and to the  
37 substitution of new pavements for any which may have been here-  
38 tofore, or which may be hereafter laid and completed, and which  
39 may be deemed insufficient.

### *Street Paving.*

Sec. 51. The council shall have the authority to provide  
2 that any street, avenue or alley or any portion thereof, between the  
3 curbstones, shall be macadamized, or paved with bricks, cobble-  
4 stones, or other suitable material, upon the lowest and best terms  
5 obtainable, after advertisement for four weeks in one or more news-  
6 papers in the city, for bids and proposals for the work; and two-  
7 thirds of the cost of such macadamizing or paving, from curb to  
8 curb of such street, avenue, or alley, shall be assessed to the owners  
9 of lots, or fractional parts of lots, fronting or abutting on such  
10 street, avenue or alley, that is to say: The property owners on  
11 each side of said street, avenue, or alley to be assessed one-third of  
12 the cost of said improvement, to each property owner a sum pro-  
13 portionate to the distance, or extent in feet by him owned, and one  
14 third of the sum so assessed shall be paid by each property owner to  
15 the city within thirty days after the completion of the work, and  
16 the remainder in two equal installments in six and twelve months  
17 thereafter, with interest thereon at the rate of six per centum per  
18 annum, or at such other times as the council may prescribe. The



19 remaining one-third of such expense, as well as the expense of mac-  
20 adamizing or paving at the intersection of streets, avenues and al-  
21 leys, shall be defrayed by the city. The council shall cause a no-  
22 tice to be published for one week in a newspaper of said city, show-  
23 ing the owners of the property and the number of feet fronting on  
24 said improvements, as well as the time and the place where the said  
25 council will proceed to fix said assessments as above provided, and  
26 giving notice to any person having an interest in said property to  
27 appear and show cause, if any they can, why such assessment  
28 should not be made; and the council may, in making said assess-  
29 ments, consider the petition of any person or corporation relative  
30 to the inequality of said assessment, and may equalize and adjust  
31 the same. The assessment to be made to any owner of real estate  
32 shall constitute a lien on such estate; and like proceedings may be  
33 had and taken to enforce such lien, or to recover from such owner  
34 the amount of such assessment, or any installment thereof, as  
35 those provided for in the preceding section providing for the lay-  
36 ing of sidewalks. The council of said city may cause an addition-  
37 al annual levy of fifteen cents on the hundred dollars of the ascer-  
38 tained value of all the real and personal property within said city,  
39 or subject to taxation, for the purpose only of defraying the ex-  
40 penses of paving the streets, avenues and alleys of said city as here-  
41 in provided; such levy shall be made at the time the general levy  
42 laid, and shall be collected in like manner, but a separate account  
43 shall be kept of the receipts and expenditures of such fund.

### *Sewers.*

Sec. 52. The council of said city shall have the authority  
2 under the provision of ordinances adopted by the council of said  
3 city to cause all necessary sewers to be constructed in any or all of  
4 the streets, alleys and public grounds of said city upon the lowest  
5 and best terms to be obtained by advertisements for bids or pro-  
6 posals therefor by the clerk of the said city by the direction of said  
7 council, and shall fix a uniform assessment against the owners of  
8 the real estate, lots or parcels of ground within said city, abutting  
9 or abounding on the streets, alleys or public grounds, in which sew-  
10 ers are so constructed, which assessment shall not exceed one dollar  
11 for each front foot of land, lot or parcel of ground, fronting or  
12 abutting on the street, alley or public ground in which said sewer is  
13 constructed. The one-half of said assessment shall be paid within  
14 thirty days after said sewer is completed and ready for use, and

15 the remaining two-thirds of said assessment shall be paid in two  
16 equal installments, on or before six months and twelve months re-  
17 spectively, from the time said sewer is completed and ready for  
18 use, said deferred payments to bear interest at the rate of six per  
19 centum per annum, and said council may by ordinance compel the  
20 owners of lots or parcels of ground, fronting or abutting on any  
21 street or alley in which such sewer is constructed, under the super-  
22 vision of such officer as council may designate, to connect any  
23 residence, store, warehouse, factory or other building occupied or  
24 used by persons, with such sewer within thirty days after its com-  
25 pletion, and may impose and inflict fines and penalties for any vio-  
26 lation of such ordinance.

27       The intersections of all streets and alleys and avenues shall be  
28 provided with sewers at the expense of the city, but all connections  
29 in street, avenue or alley shall be made by the property owner abut-  
30 ting on such street, avenue or alley wherein such sewer is construct-  
31 ed in the manner prescribed by said council by ordinance.

32       The sums of money thus assessed for sewer construction shall  
33 be a lien on the lots, tracts or parcels of land upon which they are  
34 assessed, which lien may be enforced by a suit in equity in the  
35 circuit court of Marshall county to subject the said real estate  
36 to the payment of the sum so assessed against it as herein provided,  
37 in the manner that judgment liens are enforced. The council  
38 shall cause a notice to be published for one week in some newspa-  
39 per published in said city showing the owners of the real estate  
40 and the number of feet of such real estate, owned by each fronting  
41 or abutting on such improvement, as well as the time and place  
42 where the said council will proceed to fix and make said assessments  
43 as herein provided, and giving notice to any person having an in-  
44 terest in the property so assessed, by such publication, to appear  
45 and show cause, if any he can, why such assessment should not be  
46 made; and the council may in making or reviewing such assess-  
47 ment consider the petition of any person, or corporation affected  
48 thereby, relative to the inequality of said assessment, and the said  
49 council may equalize and adjust the same. A copy of the list of such  
50 assessments, showing the name of owner, number of lot of land, and  
51 amount of assessment, attested by the mayor and clerk, shall be  
52 filed in the office of the clerk of the county court of Marshall  
53 county and recorded in the judgment lien docket in said office  
54 within thirty days after said assessments are made and approved by  
55 the said council, otherwise the lien of said assessment shall be void

56 as to any purchaser of said real estate, for value and without notice,  
57 who shall have purchased such real estate, and the clerk of said  
58 city shall execute and deliver on behalf of said city a release of such  
59 lien, upon the payment in full of said assessment.

60 The funds derived by the said city from assessments for con-  
61 struction of sewers, as herein provided, shall be used by said city  
62 for sewer construction only, and the clerk and treasurer shall keep  
63 separate accounts of receipts and disbursements of said fund and  
64 shall make separate reports with respect to said fund from time to  
65 time, as the council may direct, and the said clerk and treasurer  
66 shall be liable to said city on their official bonds for the payment of  
67 all money which may come into their hands, respectively, by vir-  
68 tue hereof, and shall pay over the same upon the proper order of the  
69 council.

Sec. 53. In addition to all other methods provided in this  
2 act for grading, paving, sewerage and otherwise improving the  
3 avenues, streets and alleys of said city, its said council may by  
4 resolution passed by vote of three-fifths of all members there-  
5 of, adopt the provisions of chapter eight of the acts of the year one  
6 thousand nine hundred and eight of the extra session of the legis-  
7 lature of West Virginia without submitting the adoption of said  
8 chapter eight to a vote of the qualified voters of said city as pro-  
9 vided in section seventeen of said chapter eight, and upon the  
10 passage of said resolution by said council, said council may pro-  
11 ceed with the improvement specified in said resolution according  
12 to the provisions of said chapter eight applicable to such im-  
13 provement the same as though the provisions of said chapter  
14 eight relating thereto were incorporated in this act.

#### *Bonds—Additional Levy.*

Sec. 54. The municipal authorities of said city shall have  
2 the power and authority to issue and make sale of the bonds  
3 of said city and to apply the proceeds thereof to the payment for  
4 any general improvement therein, or to any debt or obligation of  
5 the said city as provided in chapter forty-seven of the code of  
6 West Virginia or any amendment thereof, or may submit to the  
7 voters of said city the question of making an additional levy for  
8 any improvement in said city, and if three-fifths of the votes cast  
9 at such election on such question be in favor of such additional  
10 levy the said council may levy the same. Said municipal authori-  
11 ties also shall have the power and authority to issue and make

12 sale of the bonds of said city and to apply the proceeds thereof  
13 to the purchase or erection of a gas works, electric light and power  
14 plant, or water works, or all of such works and plants, for the  
15 use of said city, or to any other improvement for the use of  
16 said city, as provided in chapter forty-seven-a of the code of West  
17 Virginia.

Sec. 55. Wherever in this act, any notice is required to be  
2 published, or any publication required to be made in any news-  
3 paper published in said city, if at such time such notice is re-  
4 quired to be published, or such publication made, there be no news-  
5 paper published in said city, then such notice may be published  
6 or such publication made in any newspaper of general circulation  
7 in said city.

Sec. 56. All officers of said city elected to office and act-  
2 ing as such at the time this act takes effect shall continue in office  
3 until the first day of May in the year one thousand nine hundred  
4 and twenty and until their successors in office are elected and  
5 qualified under the provisions of this act, and receive the com-  
6 pensation heretofore conferred, prescribed and allowed by former  
7 charter, by general law or by the ordinances of said city. All  
8 ordinances of said city in force at the time this act takes effect  
9 shall continue in force and to have full operation and effect under  
10 the provisions of this act until amended, repealed or superseded  
11 by the council of said city. And wherever in said ordinances the  
12 word "recorder" shall occur, under this act, such word "recorder"  
13 shall be read "clerk" and construed to mean the clerk of said  
14 city.

Sec. 57. All acts and parts of acts, whether special or gen-  
2 eral, coming within the purview of this act, and inconsistent here-  
3 with, are hereby repealed.

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## House Bill No. 136

AN ACT amending and re-enacting chapter twelve of the acts of one  
thousand nine hundred and five, entitled "An act incorporating  
the city of McMechen, in the county of Marshall, fixing its cor-  
porate limits and prescribing and defining the powers and duties  
thereof, and chapter three of the acts of one thousand nine hun-

dred and fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of chapter twelve of the acts of one thousand nine hundred and five, entitled 'An act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof.'

*Be it enacted by the Legislature of West Virginia:*

That chapter twelve of the acts of one thousand nine hundred and five, entitled an act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof, and chapter three of the acts of one thousand nine hundred and fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of chapter twelve of the acts of one thousand nine hundred and five, entitled an act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof.

Section 1. The inhabitants of Marshall county, in this state, 2 and now and hereafter residing within the boundaries prescribed 3 in the next section hereof, shall be and they are hereby constituted 4 a body politic and corporate, by and under the name of "the city 5 of McMechen," and as such and by and in the name shall have 6 perpetual succession and a common seal, and may sue and be sued, 7 contract and be contracted with, purchase, lease, hold and use real 8 and personal property necessary for corporate purposes, and grant, 9 sell, convey, transfer, let and assign the same; and generally shall 10 have all the rights, powers and franchises belonging or appertaining 11 to municipal corporations in this state; and shall have and succeed 12 to all the powers, franchises, rights, privileges, and immunities, 13 and be subject to all responsibilities, which were conferred upon, 14 or belonging or appertaining to the city of McMechen, by virtue 15 of chapter twelve of the acts of the legislature of this state, passed 16 February twentyfourth, one thousand nine hundred and five.

#### *Boundaries.*

Sec. 2. The boundaries of said city shall be as follows:  
2 Commencing at the southwest corner of the corporation of the city

3 of Benwood, the same being on the west edge of the Ohio river, in  
4 the Ohio state line, where it crosses the mouth of Pinch run, thence  
5 with the south corporation lines of the city of Benwood, north  
6 eighty-one degrees fifteen minutes east, crossing the river at a  
7 point in mouth of McMechen's run; thence up the same with its  
8 meanders, north sixty-nine and one-half degrees, east one hundred  
9 and seventy-eight feet; south eighty-one degrees east ninety-one  
10 feet; north eighty-six and one-fourth degrees east one hundred and  
11 forty-eight and five-tenths feet; south eighty-four and one-fourth  
12 degrees east one hundred and forty feet; north eighty-eight and  
13 one-fourth degrees east one hundred and seventy-nine and five-  
14 tenths feet; south seventy-eight degrees east two hundred and  
15 twelve feet; south sixty-four and one-half degrees east one hun-  
16 dred and seventy feet; north eighty-eight and one-half degrees  
17 east two hundred and forty-seven feet; north eighty-six degrees  
18 east one hundred and eighty-five feet; north fifty-two degrees east  
19 one hundred and eight feet; north seventy-four and three-fourths  
20 degrees east four hundred feet; south eighty-five and three-fourths  
21 degrees east one hundred and sixteen feet; north sixty-eight and  
22 three-fourths degrees east two hundred and nine and five-tenths  
23 feet; north seventy and one-fourth degrees east ninety-two feet;  
24 north seventy-one and one-fourth degrees east one hundred and  
25 thirty-two feet to a point on the north side of the run. located south  
26 twenty-one and one-fourth degrees east seven and one-half feet  
27 from a large sycamore witness, standing on the north bank of the  
28 run; thence, leaving the corporation line of the city of Benwood,  
29 north seventy and one-half degrees east two hundred and eighty-  
30 five feet to a point at the forks of the run; thence up the south fork  
31 south seventy-seven and three-fourths degrees east two hundred  
32 and twenty feet; north twenty-seven and one-half degrees east six-  
33 ty-nine feet; south seventy-nine and one-half degrees east eighty-  
34 five feet to a point in the run, located north fourteen and one-half  
35 degrees east thirty-eight feet from the northwest corner of a small  
36 frame house standing between the run and the McMechen cemetery  
37 fence; thence up the run south sixty-six degrees east one hundred  
38 and fifty-nine feet to a point in the original easterly corporation  
39 line of McMechen; thence with said line, leaving the run, south  
40 sixteen degrees east two hundred and fifty-one and ninety-five one-  
41 hundredths feet to a stake in a field located north seventy-three and  
42 one-half degrees east one hundred and three and twelve one-hun-  
43 dredths feet from a gum tree stump, south of the cemetery fence,

44 the said stake being also located south five and one-half degrees  
45 west eighty feet from the extreme easterly corner of the McMechen  
46 cemetery fence; then from said stake with the original easterly cor-  
47 poration line of McMechen, south thirteen degrees west six thou-  
48 sand one hundred and seventy-one feet to a point in the old bed of  
49 Jim's run, south of the present bed, and located south seventy-five  
50 degrees east seven hundred and ninety-two feet from the center of  
51 the Baltimore & Ohio railroad stone bridge; thence leaving the  
52 original corporation line of McMechen, south eleven degrees east  
53 one hundred and forty-six and six-tenths feet to a point in the east  
54 line of the "First addition to Riverview;" thence with said east line  
55 south twenty-three degrees forty minutes west four hundred and  
56 eighty-five feet to the north side of Twenty-third street; thence,  
57 following said north side of Twenty-third street, north sixty-six  
58 degrees twenty minutes west three hundred feet to the south west  
59 corner of lot No. 264; north seventy-seven degrees five minutes  
60 west fifty and eight-tenths feet to the south-west corner of lot No.  
61 262; north eighty-three degrees fifty minutes west; three hundred  
62 fifty feet more or less with the north line of twenty-third street,  
63 and that line extended across Marshall street to the east property  
64 line of the Baltimore & Ohio railroad company's right of way,  
65 thence with said east line, in a south-westerly direction, eleven  
66 hundred feet more or less to the point of intersection of the said  
67 right of way line with the eastward extension of the north line of  
68 Twenty-seventh street, which street lies on the north side of an ad-  
69 dition called "Riverview addition," situated between the right of  
70 way of the Baltimore & Ohio railroad company's main line, and  
71 the right of way of the said Baltimore & Ohio railroad company's  
72 Ohio river division, thence with the north line of Twenty-seventh  
73 street, and its extension north seventy-five degrees thirty minutes  
74 west to, and across, the Ohio river, to the Ohio state line, thence  
75 up the river along the waters edge, following the said state line to  
76 the beginning.

### *Wards.*

Section 3. The territory of said city is hereby divided into  
2 four wards as follows:

3 All that part of said city lying north of Sixth street, and the  
4 line of Sixth street extended to corporate lines, shall constitute the  
5 first ward of said city; that part lying between said Sixth and  
6 Tenth streets and lines of said streets extended to corporate limits,

7 shall constitute the second ward, and all that part of said city lying  
8 between Tenth and Thirteenth streets and lines of said streets ex-  
9 tended to corporate limits, shall constitute the third ward, and all  
10 that part of said city south of Thirteenth street and the line of  
11 Thirteenth street extended to corporate limits, shall constitute the  
12 fourth ward of said city. The council of said city may change the  
13 boundaries of the different wards, but regard shall be had to equal-  
14 ity of population of the several wards.

### *Officers.*

Sec. 4. The officers of said city shall be a mayor, clerk, mar-  
2 shal, treasurer, solicitor, health officer, street commissioner, city  
3 engineer, and two councilmen from each ward. The mayor shall  
4 be elected by the qualified voters of said city. The clerk, marshal,  
5 health officer, street commissioner, treasurer, solicitor and city  
6 engineer shall be appointed by the council, and the councilmen,  
7 shall be elected by the qualified voters of their respective wards.  
8 No person shall be eligible to any elective office unless he is a  
9 qualified voter thereof, nor unless he has resided therein for at  
10 least six months before his election; and in case of a councilman,  
11 unless he is a *bona fide* resident of the ward from which he is elect-  
12 ed, and a freeholder of said city; and the removal of a councilman  
13 from the ward in which he was elected, or his ceasing to be a free-  
14 holder in said city, shall vacate his office.

15 The council may by ordinance or resolution appoint one person  
16 to perform the duties herein provided to be performed by one or  
17 more of the above named officers, define the duties to be performed  
18 by such officers, and fix the compensation therefor.

Sec 5. The municipal authorities of said city shall consist  
2 of the mayor and councilmen, who together shall form a common  
3 council, and all the corporate powers of said corporation shall be  
4 exercised by said council or under its authority, except where other-  
5 wise provided.

### *Term of Officers.*

Sec. 6. The term of office of the mayor shall begin on the  
2 first Monday in April next succeeding his election and shall be for  
3 the term of two years, and until his successor shall have been  
4 elected and qualified. The clerk, marshal, treasurer, health officer,  
5 street commissioner, solicitor, and city engineer, shall be ap-  
6 pointed by the council and shall hold their office during the pleas-



7 ure of the council. The same person shall not be appointed for  
8 two consecutive terms unless he shall have fully settled up the  
9 business of his former term or terms. At the first election provided  
10 in section eight of this act there shall be elected a mayor, whose  
11 term of office shall begin on the first Monday in April next succeed-  
12 ing his election and shall be for the term of two years, and until  
13 his successor is elected and qualified, and two councilmen from  
14 each ward whose term of office shall begin on the first Monday in  
15 April next succeeding their election, the one thereof receiving the  
16 highest number of votes shall hold his office for the term of four  
17 years, and the one receiving the next highest number of votes shall  
18 hold his office for the term of two years, and until their successors  
19 are elected and qualified. On the same day each succeeding two  
20 years one councilman from each ward shall be elected and shall hold  
21 office for four years from the first Monday in April next succeeding  
22 their election and until their successors are elected and qualified.

Sec. 7. Every person elected or appointed to any office in  
2 said city shall within twenty days after his election or appointment  
3 and before entering upon the discharge of the duties thereof, take  
4 and subscribe the oath of office prescribed by law for officers  
5 generally, which may be done before the mayor or clerk of said city,  
6 or before any person authorized by law to administer oaths; and the  
7 same, together with the certificate of the officer administering the  
8 oath, shall be filed with the clerk of the city.

#### *Elections.*

Sec. 8. The first election hereunder shall be held on the first  
2 Tuesday in March, one thousand nine hundred and twenty, and bi-  
3 annually thereafter. Every person who has been a *bona fide* resi-  
4 dent of the city for three months next preceding any election, and  
5 has paid all municipal taxes levied and assessed against him for the  
6 preceding tax year, and otherwise a qualified voter under the consti-  
7 tution and laws of the state, shall be entitled to vote at such elec-  
8 tion in the ward in which he resides. The election shall be held,  
9 conducted and the results thereof be ascertained, returned and de-  
10 termined under such rules and regulations as may be prescribed by  
11 the council, which shall not be inconsistent with the general laws of  
12 the state governing municipal elections, and shall conform as nearly  
13 as practicable to such laws. Contested elections shall be heard and  
14 decided by council, and the proceedings therein shall conform as  
15 nearly as may be to similar proceedings in the case of contested

16 elections of county and district officers. The council shall be the  
17 judge of the election, return and qualification of its own members.  
18 In case two or more persons receive an equal number of votes for  
19 the same office, if such number be the highest cast for such office,  
20 the city council shall decide by vote which of them shall be returned  
21 elected, and shall make their return accordingly.

*Council.*

Sec. 9. The council shall prescribe the powers and define  
2 the duties of all officers by it appointed, except so far as the  
3 same are by this act defined; shall fix their compensation, and may  
4 require and take from them respectively, bonds payable to the city  
5 in its corporate name with such sureties and in such penalties as  
6 may be deemed proper, conditioned for the faithful performance  
7 of their duties.

Sec. 10. The council shall require and take from all officers  
2 elected or appointed as aforesaid, whose duty it shall be to re-  
3 ceive funds, assets or property belonging to the city, or have charge  
4 of the same, such bonds, obligations or other writings as may be  
5 deemed necessary and proper to secure the faithful performance of  
6 their several duties. All bonds, obligations or other writings taken  
7 in pursuance of any of the provisions of this act shall be made pay-  
8 able to "The City of McMechen," with such sureties and in such  
9 penalties as may be deemed proper, conditioned for the faithful  
10 performance of their duties and for the accounting for and paying  
11 over, as required by law, all moneys coming into their hands by vir-  
12 tue of their offices, and the respective persons and their heirs, exec-  
13 utors and assigns bound thereby, shall be subject to the same pro-  
14 ceedings on said bonds, obligations and other writings, for enforce-  
15 ing the conditions of the terms thereof, by motion or otherwise, be-  
16 fore any court of competent jurisdiction held in and for the county  
17 of Marshall, that collectors of county levies and other sureties are  
18 or shall be subject to on their bonds for enforcing the payment of  
19 the county levies.

Sec. 11. The council shall have the authority to remove from  
2 office any elected officer of the city for misconduct or neglect of  
3 duty, by an affirmative vote of three-fourths of the members of the  
4 council, but only after reasonable notice to such officer, and a  
5 hearing of the charges preferred; and any vacancy in office, however  
6 occasioned, may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and times of holding

2 its regular meetings; may provide for special and adjourned meet-  
3 ings; shall have power to compel the attendance of its members;  
4 and may prescribe rules and regulations, not inconsistent herewith,  
5 for the transaction of business and for its own guidance and gov-  
6 ernment. The council shall be presided over at its meetings by the  
7 mayor, or in his absence by the clerk, or in the absence of both the  
8 mayor and clerk, then by one of the councilmen selected by a ma-  
9 jority of the council present, who may vote on any question as  
10 member of the council. The mayor shall have a vote only in case  
11 of a tie and in no case shall the presiding officer have more than  
12 one vote. A majority of the council shall be necessary to consti-  
13 tute a quorum for the transaction of business. No member of the  
14 council shall vote upon or take part in the consideration of any  
15 proposition in which he is or may be interested otherwise than a  
16 resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a  
2 well bound book to be called the "minute book" an accurate record  
3 of all its proceedings, ordinances, acts, orders and resolutions, and  
4 in another to be called the "ordinance book" accurate copies of all  
5 the ordinances adopted by the council, both of which shall be fully  
6 indexed and open to the inspection of any one required to pay taxes  
7 to the city, or who may be otherwise interested. All oaths and  
8 bonds of officers of the city and all papers of the council shall be  
9 endorsed, filed and securely kept by the clerk, except the bond of the  
10 clerk, which shall be filed with the mayor. All printed copies of  
11 such ordinances purporting to be published under authority of the  
12 council and transcripts of such ordinances, acts, orders and resolu-  
13 tions, certified by the clerk under the seal of the city, shall be deem-  
14 ed *prima facie* correct, when sought to be used as evidence in any  
15 court or before any justice.

Sec. 14. At each meeting of the council, the proceedings of  
2 the last meeting shall be read, and if erroneous, corrected, and sign-  
3 ed by the presiding officer for the time being. Upon the call of  
4 any member, the yeas and nays on any question shall be taken and  
5 recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or meas-  
2 ure for the expenditure of money other than to defray the current  
3 and incidental expenses of the city, shall be deemed passed or  
4 adopted unless it shall have been fully read at two consecutive  
5 meetings of the council, and shall have received a majority of the

6 votes of the members present, when it shall stand and be declared  
7 adopted and not otherwise.

Sec. 16. The council of said city shall have power to lay off,  
2 vacate, close, open, alter, grade and keep in good repair the roads,  
3 streets, alleys, pavements, sidewalks, cross-walks, drains and gut-  
4 ters therein for the use of the citizens or of the public, and to im-  
5 prove and light the same, and to keep the same free from obstruc-  
6 tions of every kind; to regulate the width of pavements and side-  
7 walks on the streets and alleys, and to order the pavements, side-  
8 walks, footways, drains and gutters to be kept in good order,  
9 free and clean, by the owners or occupants of the real property  
10 next adjacent thereto; to establish and regulate markets, pre-  
11 scribe the times of holding the same, provide suitable and con-  
12 venient buildings therefor, and prevent the forestalling or regu-  
13 lating of such markets; to prevent injury or annoyance to the  
14 public or to individuals from anything dangerous, offensive or  
15 unwholesome; to prohibit or regulate slaughter-houses and soap  
16 factories within the city limits; or the exercise of any un-  
17 healthy or offensive business, trade or employment; to abate all  
18 nuisances within the city limits, or to require and compel the  
19 abatement of removal thereof, by or at the expense of the per-  
20 son causing the same, or at the expense of the owner or occupant  
21 of the ground on which they are placed or found; to cause to be  
22 filled up, raised or drained by or at the expense of the owner,  
23 any city lot or tract of land covered or subject to be covered by  
24 stagnant water; to prevent horses, hogs, dogs, cattle, sheep, or  
25 other animals, and fowls of all kinds from going or being at  
26 large in such city, and as one means of prevention, to provide for  
27 impounding and confining such animals and fowls and upon  
28 failure to reclaim, for the sale thereof; to protect places of  
29 divine worship and to preserve order in and about the premises  
30 where and when such worship is held; to regulate the keeping  
31 of gunpowder and other inflammable or dangerous substances;  
32 to provide and regulate the building of houses or other struc-  
33 tures, and for the making and maintaining of division fences by  
34 the owners of adjoining premises, and for the proper drainage  
35 of city lots or other parcels of land, by or at the expense of the  
36 owner or occupant thereof; to provide against damage or danger  
37 by fire; to punish for assaults and batteries; to arrest, convict  
38 and punish any person for gambling or keeping gaming tables,  
39 commonly called A. B. C. or E, O, table or faro bank or keno table,

40 or table of like kind, under any denomination, whether the game  
41 or table be played with cards, dice or otherwise, or shall be a  
42 partner, or concerned in interest, in the keeping or exhibiting  
43 such table or bank, or keeping or maintaining any gaming house  
44 or place, or betting or gambling for money or anything of value;  
45 to suppress houses of ill-fame and to arrest and punish persons  
46 loitering in, or visiting them, or loitering at wharves or upon the  
47 streets; to prevent lewd and lascivious conduct; the sale or  
48 exhibition of indecent pictures or other representations; the  
49 desecration of the Sabbath day; profane swearing; to protect the  
50 persons of those residing or being within said city; to appoint  
51 when necessary or advisable a police force, permanent or tem-  
52 porary, to assist the chief of police in the discharge of his  
53 duties; to build or purchase, or lease and to use, a suitable place  
54 within or near said city for the safe keeping or punishment of  
55 persons charged with or convicted of the violation of ordinances;  
56 to provide for the employment of persons convicted of the viola-  
57 tion of ordinances or who may be committed in default of the  
58 payment of fines, penalties or costs, and who are otherwise  
59 unable to discharge the same, by putting them to work for the  
60 benefit of the city, and to use such means to prevent their escape  
61 while at work, as they may deem expedient; to erect, or authorize  
62 or prohibit the erection of gas works, electric light works or water  
63 works within the city limits; to prevent injury to such works, or  
64 the pollution of any gas or water used or intended to be used by  
65 the public or by individuals, and to do all things necessary to  
66 adequately supply said city and the inhabitants thereof with  
67 pure, healthful and wholesome water; to use, generate, distribute,  
68 sell and control electricity and gas for heat, light and power and  
69 to furnish lights for the streets, houses, buildings, stores, and  
70 other places in and about said city; to provide a sewerage sys-  
71 tem for said city; to provide for and regulate the weighing and  
72 measuring of hay, coal, lumber and other articles sold or kept or  
73 offered for sale, within said city; to establish and construct  
74 wharves and docks, and to repair, alter or remove any landing,  
75 wharf, or dock which has been or shall be so constructed and to  
76 establish and collect rates and charges for the use thereof; to  
77 regulate the running and speed of automobiles, motorcycles,  
78 vehicles, engines and cars within the said city; to organize one  
79 or more fire companies and provide necessary apparatus, tools,  
80 implements, engines or any of them for their use, and in their

81 discretion to organize a paid fire department; to make regula-  
82 tions with respect to the erection and location of all pipes, con-  
83 duits, and telephone, telegraph, electric light or other poles with-  
84 in said city, and the extension of any wires, lines and poles by any  
85 individuals or corporation; to create by ordinances such com-  
86 mittees on boards, and delegate such authority thereto as may be  
87 deemed necessary or advisable; to provide for the annual assess-  
88 ment of the taxable property therein, including dogs kept in said  
89 city, and to provide a revenue for the city for municipal purposes,  
90 and to appropriate such revenue to its expense, and generally to  
91 take such measures as may be deemed necessary or advisable to  
92 protect the property, public and private, within the city; to pre-  
93 serve and promote the health, safety, comfort and well being of  
94 the inhabitants thereof.

95 The council of said city shall have power and authority to con-  
96 trol and regulate the construction and repairs of all houses and  
97 other buildings within the said city; to provide for the granting  
98 of building permits; to cause the removal of unsafe walls or build-  
99 ings and may prohibit the erection on any such street, or in any  
100 such square, of any building, or of any addition to any building  
101 unless the outer walls thereof be made of brick and mortar or  
102 other fire proof material; and to provide for the removal of any  
103 building or addition which shall have been erected contrary to  
104 such prohibition, at the expense of the owner or owners thereof.

105 The said council of said city shall have any and all addi-  
106 tional power and authority granted to cities, towns and villages  
107 by chapter forty-seven of the code, or any additional powers here-  
108 after granted to municipal corporations by the legislature of this  
109 state.

Sec. 17. The council of said city shall have the power to  
2 contract with persons, private or municipal corporations, for fur-  
3 nishing to said city, through and over the streets, alleys and  
4 public grounds of said city, water for domestic, fire and other  
5 purposes, for use by the inhabitants of said city and persons and  
6 corporations in the vicinity thereof, and said city by its council  
7 may provide for the sale of said water to the consumer thereof  
8 upon such terms and conditions as it may deem proper, *provided*,  
9 *however*, that no contract for such water shall be made by the city  
10 for a longer period than ten years.

Sec. 18. Before the council of said city shall accept the  
2 dedication to public uses, any highway, avenue, streets or alleys

3 within said city, the highways, avenues, streets and alleys so  
4 dedicated for highway purposes shall be constructed to a proper  
5 grade to be approved by council, and the dedication of such streets,  
6 highways, avenues and alleys shall be for usual highway pur-  
7 poses and without reservation or restriction.

Sec. 19. To carry into effect these enumerated powers and  
2 all others by this act or by general law conferred, or which may  
3 hereafter be conferred upon the said city or its council or any of  
4 its officers, the said council shall have and possess full author-  
5 ity to make, pass and adopt all needful ordinances, by-laws, orders  
6 and resolutions not repugnant to the constitution and laws of the  
7 United States or of this state; and to enforce any or all of such  
8 ordinances, by-laws, orders or resolutions by prescribing for a  
9 violation thereof, fines and penalties and imprisonment in either  
10 the county jail of Marshall county, or the city prison if there be  
11 one; but no fines shall exceed one hundred dollars, and no term of  
12 imprisonment shall exceed ninety days. Such fines and penalties  
13 shall be imposed and recovered, and such imprisonment inflicted  
14 and enforced, by and under the judgment of the mayor of said city,  
15 or in case of absence or inability to act, by the clerk of said city,  
16 or in case of absence or inability to act of both of said officers, by  
17 one of the councilmen, appointed for that purpose by the council.

18 Said city is hereby authorized to work its prisoners on the  
19 public streets and other improvements of said city or to hire its  
20 prisoners to the county court of Marshall county to work on the  
21 public roads, and other improvements of said county, on such terms  
22 and conditions as may be agreed upon; without making such work a  
23 part of the judgment against such prisoners; but credit shall be  
24 allowed any prisoner for the value of such work as fixed by council,  
25 and when the fine and costs are fully paid by work, the prisoner  
26 shall be discharged from custody.

#### *Franchises.*

Sec. 20. Franchises may be granted by the city council to  
2 persons or corporations allowing such occupancy of portions of the  
3 streets and alleys as may be necessary for works of public utility  
4 and service, but no such franchise shall hereafter be granted ex-  
5 cept under the following restrictions and conditions: No ordinance  
6 shall be passed granting any franchise for the use of any of the  
7 streets or alleys of the city for any of the purposes above named,  
8 until the same shall have been filed with the clerk at least thirty

9 days prior to the time when it is to be acted upon by the council, and notice of such application, stating the object of such franchise, and when the same will be considered by the council, shall have been given thirty days' notice in some newspaper of general circulation published in Marshall county.

Nor shall such franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard.

Nor shall any franchise be hereafter granted by council for a longer period than twenty-five years, *provided*, that the council shall have the power to renew any such franchise for the term of ten years, when the same shall have expired. No franchise hereafter granted for a longer term than twenty-five years shall be of any force or validity. No grant of any such franchise shall be made without at the time of making it providing that the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction and maintenance of such works.

Any person or corporation to whom a franchise has been or may hereafter be granted by said city, who shall fail or refuse to comply with the conditions of the ordinance granting the same within thirty days after receiving notice of such failure, shall forfeit all rights and privileges conferred by said franchise unless said failure be waived by resolution of the council of said city.

#### *Power to Condemn.*

Sec. 21. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, landings, wharves, city prison, or other work or purposes of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

#### *Levy.*

Sec. 22. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all sums which are or may become lawfully chargeable against the city, and which ought to be paid within one year, and it shall order at a meeting to be held by it in the month of August of each year, as provided by



6 law, a levy of so much as will, in its judgment, be necessary to pay  
7 the same; such levy shall be upon all the real estate and personal  
8 property otherwise subject to state and county taxes, and an annual  
9 capitation tax of one dollar upon each male inhabitant of said city  
10 who has attained the age of twenty-one years; *provided*, that such  
11 levy shall not exceed the sum of forty cents upon each hundred  
12 dollars of the ascertained value of the real and personal property;  
13 and, *provided further*, that an additional special levy of ten cents  
14 upon each one hundred dollars of such valuation may be levied for  
15 the purpose only of paying the principal and interest of the bonds  
16 of said city now outstanding.

*Lien for Taxes.*

Sec. 23. There shall be a lien on real estate within said city  
2 for the city taxes assessed thereon, and for all fines and penalties  
3 assessed to, or imposed upon the owners thereof, by the authorities  
4 of such city, from the time the same are so assessed or imposed,  
5 which shall have the priority over all other liens, except the lien  
6 for taxes due the state, county and district; and which may be en-  
7 forced by the council in the same manner provided by law for the  
8 enforcement of the lien for county taxes. If any real estate within  
9 said city be returned delinquent for the non-payment of the delin-  
10 quent taxes thereon, a copy of such delinquent list may be certified  
11 by the council to the auditor, and the same may be sold for the  
12 city taxes, interest and commission thereon, in the same manner, at  
13 the same time and by the same officer as real estate is sold for the  
14 non-payment of state taxes.

*Distress for Taxes.*

Sec. 24. If any person against whom, or upon whose property  
2 any taxes shall be lawfully assessed for the benefit of said city  
3 shall not wholly pay such tax on or before the first day of January  
4 after the same shall have become due, it shall be lawful for the  
5 officer authorized to collect such tax to take reasonable distress  
6 of any personal property in said city, belonging to said delinquent,  
7 in which he or she shall have the right or interest, and sell such  
8 property, right, or interest at public auction in said city, having  
9 given ten days' notice of the time and place of sale, by advertise-  
10 ment posted in some public place in said city, and published or  
11 posted in such other manner as may be prescribed by ordinance of  
12 said city, if council shall by ordinance require any other or more

13 ample advertisement, and out of the proceeds of such sale after de-  
14 fraying all expenses, to pay said city the said tax, or as much there-  
15 of as shall be delinquent, and return the remainder, if any, to the  
16 owner of the property so levied and sold.

*Other Remedies.*

Sec. 25. In addition to all other means for the collection  
2 thereof, all taxes, as well as all other demands due to the said  
3 city, may be recovered by any appropriate suit or proceeding in the  
4 name of the city before any justice of Marshall county, if the  
5 amount be within his jurisdiction, or in the circuit court of said  
6 county if the amount be within the jurisdiction of said court, and  
7 any judgment so obtained may be enforced as other judgment liens  
8 are enforced.

*Licenses Generally.*

Sec. 26. The council shall have the authority to require a  
2 city license as follows: For anything to be done, carried on or  
3 exhibited within the city, for which a state license is now or may  
4 hereafter be required, for the keeping of hacks, carriages, carts,  
5 wagons, and other vehicles for hire within the city, and for keeping  
6 of dogs within the city, and the council may provide for the killing  
7 of all dogs, the keeping of which is not so licensed. And upon all  
8 such licenses the council may impose a reasonable tax for the use of  
9 the city.

Sec. 27. The council shall prescribe by ordinance the manner  
2 in which licenses of all kinds shall be applied for and granted, and  
3 shall require the payment of the tax thereon to be made to the  
4 marshal of said city before delivery to the person applying therefor  
5 and the provisions of sections thirty-nine, forty and forty-one of  
6 chapter thirty-two of the code of West Virginia, one thousand nine  
7 hundred and thirteen, relating to licenses, shall govern the city in  
8 the granting of licenses similar in character to those therein men-  
9 tioned, except where otherwise herein provided. Licenses for  
10 keeping dogs shall also expire on the thirtieth day of June next  
11 after they are granted, and all other licenses may be for such times  
12 as the council may determine.

*Mayor.*

Sec. 28. The mayor shall be the chief executive officer of the

2 city and shall see that the orders, by-laws, ordinances and regula-  
3 tions of the council thereof are faithfully executed; he shall be *ex-*  
4 *officio* a justice and conservator of the peace within the city and  
5 shall within the same have, possess and may exercise, all the powers  
6 and perform all the duties whether in civil or criminal proceedings,  
7 vested by law in a justice of the peace. Any summons, warrant or  
8 other process, issued by him, may be executed at any place within  
9 the county; he shall have power during the recess of the regular  
10 meetings of council to appoint special police officers when he shall  
11 deem it necessary, and it shall be his duty to see that the peace and  
12 good order of the city are preserved, and that persons and property  
13 therein are protected; and to this end he may arrest and detain, or  
14 cause the arrest and detention, of all riotous and disorderly per-  
15 sons before taking other proceedings in the case; he shall from time  
16 to time recommend to the council such measures as he may deem  
17 needful for the welfare of the city; he shall not receive any money  
18 due or belonging to the state or corporation or to individuals, unless  
19 and until he shall have given the bond and security required of a  
20 justice of the peace by chapter fifty of the code of West Virginia;  
21 and all the provisions of said chapter relating to moneys received  
22 by justices shall apply to moneys received by him in like cases.

23 The mayor shall receive a salary of not less than two hundred  
24 nor more than three hundred dollars per annum; such salary shall  
25 be in lieu of the fees which would otherwise accrue to him in pro-  
26 ceedings for the enforcement of ordinances, but all such fees shall  
27 be collected when practicable, and accounted for to the city, and he  
28 may tax such costs against any person or corporation found guilty  
29 of the violation of any ordinance of the city, as are provided to be  
30 taxed and recovered by justices of said county in criminal cases.

31 The process in proceedings to enforce any ordinances prescrib-  
32 ing a fine or imprisonment, or a fine and imprisonment, for the vi-  
33 olation thereof, shall be a summons in the name of the city of Mc-  
34 Mechen as plaintiff, directed to the marshal, or to one of the regular  
35 police officers of the city, or to any constable of any district with-  
36 in the said city, requiring him to summon the person accused of  
37 such violation, and who shall thereafter be designated as defendant,  
38 to appear before the mayor at the time and place therein named to  
39 make answer to such accusation and be dealt with according to law;  
40 such summons shall contain such statement of the facts alleged as  
41 will inform such person of the general nature of the offense against  
42 the city of which he stands charged, and except in cases of arrest

43 upon view, shall be issued only upon the complaint, on oath, of  
44 some credible person. But the mayor for good cause appearing, by  
45 endorsement on the summons, may order the person so accused to  
46 be forthwith apprehended and brought before him for a hearing of  
47 the charge. The clerk of said city, as well as the mayor, shall have  
48 authority to receive any complaint in writing of the violation of  
49 any ordinance, and to sign and issue the proper summons based  
50 upon such complaint. The mayor shall have, possess and may ex-  
51 ercise the power and authority belonging to a justice under section  
52 two hundred and twenty-four and two hundred and twenty-five of  
53 chapter fifty of the code of West Virginia, in summoning and en-  
54 forcing the attendance and examination of witnesses, in punishing  
55 for contempt, in granting continuances, and in securing and en-  
56 forcing the further attendance of the accused with a view to a trial  
57 or hearing. If any recognizance be taken for such further attend-  
58 ance, and is forfeited, the mayor may record the default, and an ac-  
59 tion be maintained in the name of the city, before the mayor, or  
60 any justice having jurisdiction, against the accused and his sure-  
61 ties, if any, to recover the penalty thereof.

Sec. 29. The mayor shall have the power to issue an execu-  
2 tion for any fine and cost assessed or imposed by him, for the vio-  
3 lation of any ordinance, or he may at the time of rendering judg-  
4 ment therefor, or at any time thereafter and before satisfaction of  
5 such judgment, by his order in writing, require the immediate pay-  
6 ment thereof, and in default of such payment he may cause the  
7 person so in default to be apprehended and brought before him,  
8 and commit him to the jail of Marshall county or in his discretion  
9 to the prison of said city, if one shall have been provided, until the  
10 fine and costs are fully paid; but such imprisonment shall not ex-  
11 ceed ninety days.

Sec. 30. The jail of Marshall county may be used as a lockup  
2 for said city. The jailor of said county shall take and receive into  
3 his custody any person authorized to be confined therein by any or-  
4 dinance of the city, or sentenced to imprisonment therein, or com-  
5 mitted thereto, for non-payment of a fine or costs, or for failure to  
6 enter into a recognizance by the judgment or order of the mayor,  
7 in proceedings for the violation of an ordinance; and the expense of  
8 maintaining such persons while so in confinement shall, if such per-  
9 son be found guilty of such violation, be charged to such person as  
10 part of the costs, but whether collected from such person or not,  
11 such expense shall be paid to said jailor by the city.

*Mayor's Docket.*

Sec. 31. A book well bound and indexed, to be denominated  
2 the "docket" shall be kept in the office of the mayor, in which shall  
3 be noted each case brought or tried by him, together with the pro-  
4 ceedings therein, including a statement of complaint, the summons,  
5 the return, the fact of appearance or non-appearance, the defense,  
6 the hearing, the judgment, the costs, and in case the judgment be  
7 one of conviction, the action taken to enforce the same; the record  
8 of such case shall be signed by the mayor or other person acting in  
9 his stead; and the original papers thereof, if no appeal be taken.  
10 shall be kept together and preserved in his office.

*Appeal.*

Sec. 32. In any case for the violation of an ordinance of the  
2 said city, in which there is a judgment by the mayor of imprison-  
3 ment, or for a fine of more than ten dollars, an appeal shall lie at  
4 the instance of the person against whom such judgment is rendered  
5 to the circuit court of Marshall county. Such appeal shall not be  
6 granted by the mayor unless within ten days from the date of the  
7 judgment, such person shall enter into a recognizance, with security  
8 deemed sufficient, in a penalty double the amount of fine and costs,  
9 with condition that the person appealing will appear before the said  
10 court on the first day of the next term thereof, to answer for the  
11 offense against the city with which he stands charged, and not  
12 thence depart without leave of said court, and will perform and  
13 satisfy any judgment which may be rendered against him by the  
14 circuit court on appeal. The provisions of chapter one hundred  
15 and sixtytwo of the code of West Virginia, relating to recognizance  
16 in criminal cases, shall be applicable to the recognizance contem-  
17 plated by this section, except where herein otherwise provided; but  
18 any money recovered thereon or by virtue thereof shall inure to the  
19 said city.

Sec. 33. If such appeal be taken the mayor shall forthwith  
2 deliver to the clerk of said court the complaint in writing, if any,  
3 the summons, a transcript of the record including the judgment,  
4 the recognizance, and any other papers belonging to the case; and  
5 such clerk shall receive and file the same, and place the case upon  
6 the trial docket of the next succeeding term of said court, and said  
7 court shall proceed to try the same in its order.

Sec. 34. If the appellant be found guilty of a violation of the

2 ordinance in question, whether upon the verdict of a jury or other-  
3 wise, the court shall ascertain by its judgment the fine or impris-  
4 onment or the fine and imprisonment to be paid or suffered by  
5 such defendant, having regard to the punishment prescribed by  
6 such ordinance, and shall include in any such judgment the costs  
7 incurred by said city, as well in the proceedings before the mayor  
8 as those in court, including a fee to the attorney for the city of ten  
9 dollars, and the fees, if any, of the jailor or the keeper of the city  
10 prison; and the proceedings to enforce the collection of any such  
11 fine and costs, may be as provided in section ten, eleven and twelve  
12 of chapter thirty-six of the code of West Virginia, except that the  
13 writ mentioned in the tenth section may be issued by the clerk upon  
14 the order of the mayor of the city, and the notice contemplated by  
15 the eleventh section shall be given to such officer.

Sec. 35. From all judgments by the mayor in cases other  
2 than for violation of ordinances, appeals shall be allowed as in sim-  
3 ilar cases before justices.

#### *Solicitor.*

Sec. 36. The city solicitor shall prosecute and defend all  
2 suits for or against the city, and when requested so to do, shall give  
3 his opinion in writing to the mayor, the council, or any standing  
4 committee of council, upon such legal question as may be referred  
5 to him, affecting the city's interest. For his services he shall  
6 receive such compensation as the council may allow.

#### *Marshal.*

Sec. 37. It shall be the duty of the marshal to preserve  
2 order and quiet in said city, and to see that all subordinate police  
3 officers faithfully perform their official duties, and he may for  
4 good cause appearing to him for neglect of duty or insubordination,  
5 suspend any such officer from duty, and report his action and his  
6 reason therefor to the next regular meeting of council for action  
7 thereon; he shall make a list of all dogs within said city liable to  
8 tax, collect the license tax thereon and pay the same to the treasur-  
9 er, as may be provided by ordinance of said city; he shall collect the  
10 taxes, assessments, licenses, and fees which may become due the  
11 city, and pay the same to the treasurer as herein provided; he shall  
12 be present in the police court whenever the same shall be in session,  
13 and see that all its orders and requirements are properly executed;

14 he shall with the consent of the council entered of record, but not  
15 otherwise, appoint one or more policemen, as the council may deter-  
16 mine; he shall before entering upon the discharge of his duties, ex-  
17 ecute a bond conditioned for the faithful performance by him of the  
18 duties of his office, and for the accounting for any paying over, as  
19 required by law, all money which may come into his hands by virtue  
20 of his office, with sureties satisfactory to the council, in a penalty  
21 of not less than five thousand dollars nor more than fifteen thou-  
22 sand dollars, as the council may prescribe; he shall receive such sal-  
23 ary as may be fixed by council, which shall be at the rate of not less  
24 than six hundred dollars nor more than one thousand dollars per  
25 annum, and two per centum on all taxes, fines, assessments and pro-  
26 ceeds of licenses, collected by him and paid to the treasurer of said  
27 city as herein provided.

28 Each policeman appointed as prescribed by this section shall,  
29 before entering upon the discharge of his duties, execute a bond  
30 conditioned for the faithful performance by him of the duties of  
31 his office and as is required by law, and for the accounting for and  
32 paying over, as is required by law, all money which may come into  
33 his hands by virtue of his office, with sureties satisfactory to the  
34 council, in a penalty of not less than one hundred dollars nor more  
35 than five thousand dollars, as the council may prescribe.

Sec. 38. In case a violation of any ordinance of said city  
2 is committed in the presence, or within view of the marshal or other  
3 police officer, the offender may be forthwith apprehended and taken  
4 before the mayor, and a complaint under oath, stating such viola-  
5 tion, there lodged and filed; and thereupon such offender may be  
6 tried and dealt with according to law, without summons. The  
7 marshal shall execute, within the county of Marshall, when directed  
8 to him, any proper process issued by the mayor in proceedings for  
9 the enforcement of ordinances; and shall collect by levy of execu-  
10 tion, or otherwise, and duly account for, all fines assessed and costs  
11 imposed in such proceedings. He shall also have all the rights and  
12 powers within said city, in regard to the arrest of persons, the col-  
13 lection of claims, and the execution and return of process, that are  
14 or may be lawfully exercised by a constable of a district within the  
15 same, and shall be entitled to the same compensation therefor; and  
16 he and his sureties shall be liable to all the fines, penalties and for-  
17 feitures that a constable is liable, for any dereliction of duty in of-  
18 fice, to be recovered in the same manner, and in the same courts,

19 that such fines, penalties and forfeitures are recovered against con-  
20 stables.

*Clerk.*

Sec. 39. It shall be the duty of the city clerk to keep a  
2 journal of the proceedings of the city council and have charge of and  
3 preserve the records, papers, contracts and other documents belong-  
4 ing to the city; he shall keep regular books of account of the finan-  
28 the second Tuesday in August, for the purpose of determining the  
5 cial transaction of the city; he shall enter all judgments rendered  
6 by the mayor within a reasonable time after the same are rendered;  
7 he shall, in case of sickness or disability of the mayor to act, or in  
8 case of his absence from the city, or during any vacancy in the office  
9 of the mayor, perform the duties of mayor, and shall be vested with  
10 all the powers necessary for the performance of such duties; he  
11 shall also perform such other duties pertaining to the fiscal affairs  
12 of the city, or otherwise, as may be required of him by this act or  
13 by the council. He shall be paid such compensation as may be  
14 provided by council, which shall be at the rate of not less than two  
15 hundred dollars nor more than three hundred dollars per year.  
16 Such clerk shall give bond with security to be approved by the  
17 council in a penalty of not less than five hundred dollars, payable  
18 to said city, conditioned for the faithful performance of his duties  
19 as such clerk.

19a The officer whose duty is to make out the land books for Mar-  
20 shall county, or such other person as the council may appoint, shall,  
21 annually, at such compensation as agreed upon with council, not  
22 later than the fifth day of August, furnish to the clerk, showing in  
23 separate amounts, the aggregate value of all the personal property  
24 and the aggregate value of all the real estate in the city, as ascer-  
25 tained from the land and personal property books of said county  
26 for the current year; upon receiving said statement the clerk shall  
27 present the same to council at a meeting to be held not later than  
29 rate of levy in said city for the current year; as soon as the rate of  
30 levy shall have been fixed by council, the clerk shall furnish the offi-  
31 cer whose duty it is to make out the land and personal property  
32 books, a certified copy of the order of the council, fixing the rate of  
33 tax, and such officer shall thereupon extend the tax against the  
34 property situated in the city in the land and personal property  
35 books in separate columns in said books.

Sec. 40. The clerk shall, when the extended copies of the



2 assessor's books are completed and returned to the clerk of the  
3 county court, have access to the same for the purpose of making out  
4 the tax tickets of the taxes therein extended, and it shall be the  
5 duty of the clerk to make out all tax tickets, and when the same  
6 have been examined, compared and approved by the financial com-  
7 mittee of the council and found to be correct, they shall be turned  
8 over to the marshal not later than the tenth day of September fol-  
9 lowing the levy, whose receipt shall be returned to the council and  
10 entered upon its records, and the marshal shall be charged there-  
11 with.

12 The marshal shall give notice that said tax tickets are in  
13 his hands for collection, stating the penalty for nonpayment there-  
14 of, and the time and place where the same may be paid, which no-  
15 tice shall be posted for fifteen days in a public place in each ward  
16 of said city.

17 To all persons who shall pay their taxes in full before the first  
18 day of December next succeeding said levy there shall be allowed  
19 a discount of two and one half per centum on the whole amount of  
20 the taxes so paid, and not otherwise.

21 The marshal shall immediately proceed to collect from the  
22 persons by district or otherwise the entire amount of the taxes with  
23 which they are severally charged therein, and remaining unpaid on  
24 the first day of January next succeeding said levy, with interest at  
25 the rate of one per centum per month from said first day of Janu-  
26 ary until they are fully paid.

27 All license taxes shall be payable on the first day of July of  
28 each year, or at such time as such license may be issued.

Sec. 41. The said marshal shall receive all taxes, assess-  
2 ments, fines and costs and other money due the city authorized by  
3 this act, or by any ordinance of the said city, to be paid to the city,  
4 and shall receipt for same; he shall keep an accurate account of all  
5 money paid to him for the use of said city, showing under separate  
6 accounts the amount received for account of taxes, sewer purposes,  
7 street pavement, licenses, fines and costs and of other matters per-  
8 taining to his office, which books shall at all times be open to the  
9 inspection of the council or any committee appointed by it for  
10 such purposes; he shall pay over promptly all money which he may  
11 receive, within five days after the receipt thereof, into the hands  
12 of the treasurer of the said city, showing an itemized statement of  
13 the several funds included in said payment, taking the treasurer's  
14 receipt therefor; he shall keep his office at the office of the mayor,

15 unless otherwise ordered by the council; he shall on or before the  
16 last day of March and September of each year, and oftener if di-  
17 rected by council, present to the council a full, complete and detail-  
18 ed statement of all money with which he is chargeable, or that has  
19 been received by him from all sources up to the time, together with  
20 a statement of all money paid to the treasurer, and proper receipts  
21 therefor, and he shall at such times return a list of all taxes, lev-  
22 ies, assessments and other claims in his hands for collection which  
23 he shall not have been able to collect by reason of insolvency, re-  
24 moval, or other cause, to which list he shall append an affidavit that  
25 he has used due diligence to collect the several items therein men-  
26 tioned, but has been unable to do so, and if the council should be  
27 satisfied as to the correctness of said list, it shall allow him a credit  
28 for said claim, but may thereafter take such lawful measures to  
29 collect the same as shall be by it prescribed. The said marshal  
30 shall receive all taxes on licenses, and receipt to the party paying  
31 the same by endorsement upon the permit granted by order of the  
32 council and shall charge himself with the amount received from the  
33 same, and report to the council at the next regular meeting there-  
34 after, the amount so received, and pay the same over to the treas-  
35 urer, taking his receipt for the same; he shall, upon the expiration  
36 of his term of office or upon the order of council, turn over to his  
37 successor all money, books of account and other property of said  
38 city in his possession.

Sec. 42. The marshal of said city shall be chargeable with,  
2 and it shall be his duty to collect, the city taxes, levies and assess-  
3 ments under such regulations as may be prescribed by law and the  
4 ordinances of the city, and in case the same are not paid within  
5 one month after they are placed in his hands for collection, he may  
6 distrain and sell therefor in like manner and have the same power  
7 and authority possessed by the officer with the collection of state  
8 taxes.

9 If the marshal shall fail to collect, account for and pay over  
10 to the treasurer of said city any or all the money with which he  
11 may be chargeable, belonging to the said city, according to the con-  
12 ditions of his bond and orders of council, it shall be lawful for  
13 the council to recover the same by action or by motion, upon ten  
14 days' notice, in the corporate name of the city, in the circuit court  
15 of Marshall county, against him and his sureties, or any or either  
16 of them, or his or their executors or administrators.

7 of not less than five hundred dollars nor more than one thousand  
8 one hundred dollars per annum.

#### City Engineer.

Sec. 46. The city engineer shall be selected by the council,  
2 and shall hold office during the pleasure of the council; he shall  
3 perform such duties as may be required of him by the council or  
4 provided by ordinance of said city, and his compensation therefor  
5 shall be fixed by the council.

#### Fiscal Year.

Sec. 47. The fiscal year of said city shall begin on the first  
2 day of April and end on the thirty-first day of March of each  
3 year.

#### Property Subject to Taxation.

Sec. 48. All property real and personal within said city  
2 which is subject to taxation under the constitution and laws of  
3 the state of West Virginia, shall be assessed for and subject to  
4 taxation for the benefit of said city.

#### Sidewalks.

Sec. 49. After having caused a proper grade to be established  
2 at the expense of said city, the council may require sidewalks, foot-  
3 ways or sidewalks and gutter combined, on the streets, avenues or  
4 alleys of the said city to be paved with concrete, brick, stone or  
5 other suitable material as the council may determine, under the  
6 direction of the street commissioner, by the owners respectively of  
7 the lots, or the fractional parts of lots, facing or abutting on such  
8 sidewalk or footway, and if the owner of any such sidewalk or  
9 footway, or of the real property next adjacent thereto, shall fail or  
10 refuse to pave the same in manner or within the time required by  
11 the council, it shall be the duty of the council to cause the same to  
12 be done at the expense of the city, and to assess the amount of such  
13 expense upon such owner, and the clerk shall notify the owner of  
14 said lot the amount of such assessment, giving said owner notice  
15 of the time the council will hear and determine any objection  
16 which may be made to such assessment, and the council shall pro-  
17 ceed to hear such objections, if any, and if in the opinion of the

77 off not less than five hundred dollars nor more than one thousand  
88 one hundred dollars per annum.

### *City Engineer.*

Sec. 486. The city engineer shall be selected by the council,  
22 and shall hold office during the pleasure of the council; he shall  
33 perform such duties as may be required of him by the council or  
44 provided by ordinance of said city, and his compensation therefor  
55 shall be fixed by the council.

### *Fiscal Year.*

Sec. 487. The fiscal year of said city shall begin on the first  
22 day of April and end on the thirty-first day of March of each  
33 year.

### *Property Subject to Taxation.*

Sec. 488. All property real and personal within said city  
22 which is subject to taxation under the constitution and laws of  
33 the state of West Virginia, shall be assessed for and subject to  
44 taxation for the benefit of said city.

### *Sidewalks.*

Sec. 489. After having caused a proper grade to be established  
22 at the expense of said city, the council may require sidewalks, foot-  
33 ways or sidewalks and gutter combined, on the streets, avenues or  
44 alleys of the said city to be paved with concrete, brick, stone or  
55 other suitable material as the council may determine, under the  
66 direction of the street commissioner, by the owners respectively of  
77 the lots, or the fractional parts of lots, facing or abutting on such  
88 sidewalk or footway, and if the owner of any such sidewalk or  
99 footway, or of the real property next adjacent thereto, shall fail or  
100 refuse to pave the same in manner or within the time required by  
101 the council, it shall be the duty of the council to cause the same to  
102 be done at the expense of the city, and to assess the amount of such  
103 expense upon such owner, and the clerk shall notify the owner of  
104 said lot the amount of such assessment, giving said owner notice  
105 of the time the council will hear and determine any objection  
106 which may be made to such assessment, and the council shall pro-  
107 ceed to hear such objections, if any, and if in the opinion of the

18 council such assessment should be made, such fact, with the amount  
18 of the same shall be recorded in the "minute book" of the council,  
19 and if the said assessment be not paid within thirty days from the  
20 date of such hearing the clerk shall cause a memorandum showing  
21 the name of the owner of said lot, a description of the lot, and the  
22 amount of such assessment, to be filed in the office of the clerk of  
23 the county court of Marshall county, which shall be entered of  
24 record in the judgment lien docket in his office, and the same shall  
25 constitute a lien on such property, which may be enforced by a  
26 suit in equity in the name of the city, in the circuit court of  
27 Marshall county, as other liens against real estate are enforced,  
28 and upon the payment of said assessment the clerk shall issue  
29 to the person entitled thereto a release of said lien, provided, how-  
30 ever, that reasonable notice shall first be given to said owners  
31 that they are required to construct such sidewalks or footways, and  
32 in case the owner is a non-resident of the state, the notice aforesaid  
33 may be given by publication for four successive weeks in a news-  
34 paper published in Marshall county, West Virginia. The pro-  
35 visions of this section shall also be applicable to needed repairs to  
36 any of the pavements of the city, and to the substitution of new  
37 pavements for any which may have been heretofore, or which may  
38 be hereafter laid and completed, and which may be deemed in-  
39 sufficient.

### *Street Paving.*

Sec. 50. The council shall have the authority to provide that  
2 any street, avenue or alley or any portion thereof, between the  
3 curbstones or gutters, shall be macadamized or paved with bricks,  
4 cobblestones or other suitable material, upon the lowest and best  
5 terms obtainable, after advertisement for four weeks in one or more  
6 newspapers published in Marshall county, West Virginia, for bids  
7 and proposals for the work, and two-thirds of the cost of such mac-  
8 adamizing or paving, between the curbs or gutters of such street,  
9 avenue or alley, shall be assessed to the owners of lots, or fractional  
10 part of lots, fronting or abutting on such street, avenue or alley,  
11 that is to say, the property owners on each side of said street, avenue  
12 or alley to be assessed one-third of the cost of said improvement,  
13 to each property owner a sum proportionate to the distance, or ex-  
14 tent in feet by him owned, and one-third of the sum so assessed  
15 shall be paid by each property owner of the city within thirty days  
16 after the completion of the work, and the remainder in two equal

18 council such assessment should be made, such fact, with the amount  
 18-a of the same shall be recorded in the "minute book" of the council,  
 19 and if the said assessment be not paid within thirty days from the  
 20 date of such hearing the clerk shall cause a memorandum showing  
 21 the name of the owner of said lot, a description of the lot, and the  
 22 amount of such assessment to be filed in the office of the clerk of  
 23 the county court of Marshall county, which shall be entered of  
 24 record in the judgment lien docket in his office, and the same shall  
 25 constitute a lien on such property, which may be enforced by a  
 26 suit in equity in the name of the city, in the circuit court of  
 27 Marshall county, as other liens against real estate are enforced,  
 28 and upon the payment of said assessment the clerk shall issue  
 29 to the person entitled thereto a release of said lien, provided, how-  
 30 ever, that reasonable notice shall first be given to said owners  
 31 that they are required to construct such sidewalks or footways, and  
 32 in case the owner is a non-resident of the state, the notice aforesaid  
 33 may be given by publication for four successive weeks in a news-  
 34 paper published in Marshall county, West Virginia. The pro-  
 35 visions of this section shall also be applicable to needed repairs to  
 36 any of the pavements of the city, and to the substitution of new  
 37 pavements for any which may have been heretofore, or which may  
 38 be heretofore laid and completed, and which may be deemed in-  
 39 sufficient.

#### Street Paving.

Sec. 50. The council shall have the authority to provide that  
 2 any street, avenue or alley or any portion thereof, between the  
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 5 terms obtainable, after advertisement for four weeks in one or more  
 6 newspapers published in Marshall county, West Virginia, for bids  
 7 and proposals for the work; and two-thirds of the cost of such mac-  
 8 adamizing or paving, between the curbs or gutters of such street,  
 9 avenue, or alley, shall be assessed to the owners of lots, or fractional  
 10 part of lot, fronting or abutting on such street, avenue or alley.  
 11 That is to say, the property owners on each side of said street, avenue  
 12 or alley to be assessed one-third of the cost of said improvement,  
 13 to each property owner a sum proportionate to the distance, or ex-  
 14 tent in feet by him owned, and one-third of the sum so assessed  
 15 shall be paid by each property owner of the city within thirty days  
 16 after the completion of the work, and the remainder in two equal

county of Marion, defining the powers thereof and describing the limits of said town, and incorporating the city of Mannington, in said county," and all subsequent acts of the legislature of said state, including the acts passed February seventeenth, one thousand nine hundred and five; February twentieth, one thousand nine hundred and fifteen; and February nineteenth, one thousand nine hundred and seventeen, which form a part of the charter of the city of Mannington.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county of Marion as is within the bounds prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The City of Mannington," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary to the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as follows:

Beginning at a stake in the northern side of the old Mannington and Clarksburg turnpike, near the residence of E. B. Koehn, and running thence south seventy-six degrees east three hundred and sixty-three feet to a stake in the northern side of said turnpike; thence south forty-seven degrees thirty minutes east eight hundred and thirty-four feet to a stake in the northern side of said turnpike; thence south thirty-one degrees fifteen minutes east six hundred and thirty and five-tenths feet to a stake in the northern side of said turnpike; thence south sixteen degrees twenty-five minutes east three hundred and three feet to a stake in the northern side of said turnpike; thence leaving said turnpike south seventy-three degrees fifty-two minutes east seven hundred and fifty-seven feet to a stake in the field; thence south eighty-nine degrees forty-four minutes east two hundred and eighty-nine feet to a stone corner to Mary Hamilton and lands formerly owned by John Blackshear heirs and now owned by the Wyomore Land company; thence north seventy-nine degrees thirty-six minutes east eight hundred and eighty-six feet to a stake, which bears south sixty-five degrees west ninety-five feet from oil well number twelve on the original J. W. Phillips tract;



county of Marion, defining the powers thereof and describing the limits of said town, and incorporating the city of Mannington, in said county, and all subsequent acts of the legislature of said state, including the acts passed February seventeenth, one thousand nine hundred and five; February twentieth, one thousand nine hundred and fifteen; and February nineteenth, one thousand nine hundred and seventeen, which form a part of the charter of the city of Mannington.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of so much of the county of Marion as is within the bounds prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The City of Mannington," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary to the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as follows:

Beginning at a stake in the northern side of the old Mannington and Clarksburg turnpike, near the residence of E. B. B. Keen, and running thence south seventy-six degrees east three hundred and sixty-three feet to a stake in the northern side of said turnpike; thence south forty-seven degrees thirty minutes east seven hundred and thirty-four feet to a stake in the northern side of said turnpike; thence south thirty-one degrees fifteen minutes east six hundred and thirty and five-tenths feet to a stake in the northern side of said turnpike; thence south sixteen degrees twenty-five minutes east three hundred and three feet to a stake in the northern side of said turnpike; thence leaving said turnpike south seventy-three degrees fifty-two minutes east seven hundred and fifty-seven feet to a stake in the field; thence south eighty-nine degrees forty-four minutes east two hundred and eighty-nine feet to a stone corner to Mary Hamilton and lands formerly owned by John Blackshire heirs and now owned by the Sycamore Land company; thence north seventy-nine degrees thirty-six minutes east eight hundred and eighty-six feet to a stake, which bears south sixty-five degrees west ninety-five feet from oil well number twelve on the original J. W. Phillips tract;



224 thence south fifteen degrees fourteen minutes east one thousand  
 225 five hundred and fifty five feet to a stake set twenty feet to the left  
 226 of well number three on said J. W. Phillips tract; thence north  
 227 seventy six degrees fifty four minutes east eight hundred and  
 228 eighty five feet to a stake, three feet from the northwest corner  
 229 of the concrete bridge over Hilleggy Meadow run; thence south  
 230 eighty six degrees thirty four minutes east five hundred and  
 231 eighteen feet to a stake in a Homewood street, the southeast cor-  
 232 ner of lot number two, block No. N, twenty eight feet to the  
 233 left at right angles; thence north sixty one degrees, fifty six  
 234 minutes east four hundred and thirty five feet to a stake eight  
 235 feet to the right of the southeast corner of lot number thirty nine,  
 236 block M; thence crossing Buffalo creek and the Baltimore and  
 237 Ohio railroad, north forty two degrees fifty two minutes east  
 238 five hundred and seventy feet to a stake at the southern edge of  
 239 the pile; thence north forty degrees fifty seven minutes west  
 240 41 four hundred and twenty six feet to a stake at the southern edge  
 241 a of the pile; thence north twenty five degrees six minutes west  
 242 41 b of the pile; thence north twenty five degrees six minutes west  
 243 41 c three hundred and fifty four feet to a stake at the southern edge of  
 244 41 d the pile thence north twenty one degrees fifty eight minutes  
 245 west six hundred and eighty nine feet to a stake at the southern  
 246 edge of the pile; thence north forty degrees nine minutes west  
 247 two hundred and sixty nine feet to a stake at the south side of  
 248 the pile; thence north thirty three degrees fifty four minutes  
 249 west three hundred feet to a stake at the south side of the pile;  
 250 thence north forty six degrees thirty four minutes west one hun-  
 251 dred and ninety one feet to a stake at the south side of the pile;  
 252 thence south eighty seven degrees twenty  
 253 one minutes west one hundred and fifty four and five eighths feet  
 254 to a stake at the south side of the pile near a culvert; thence  
 255 north one degree twenty four minutes west four hundred and  
 256 eighty feet to a well; thence north thirty seven degrees west  
 257 seven hundred and fifty five feet to a hole in a corner to Rymer  
 258 thence north fifty six degrees west one thousand four hun-  
 259 dred and thirty one feet to a stake corner to Rymer's and  
 260 M. F. Hamilton; thence north thirty three degrees twen-  
 261 ty minutes west one thousand eight hundred and twenty

28 1/2 minutes west one thousand eight hundred and twenty  
 27-5 M. F. Hamilton; thence north thirty-three degrees twen-  
 27-a dred and thirty-one feet to a stake, corner to Rymer heirs and  
 27 heirs thence north fifty-six degrees west one thousand four hun-  
 26 seven hundred and fifty-five feet to a Hickory, corner to Rymer  
 25 eighty feet to a walnut; thence north thirty-seven degrees west  
 24 north one degree twenty-four minutes west four hundred and  
 23 to a stake at the south side of the dike near a culvert; thence  
 22 one minutes west one hundred and fifty-four and five-tenths feet  
 21 south side of the dike; thence south eighty-seven degrees twenty-  
 20 hundred and fifty-seven and five-tenths feet to a stake at the  
 19 thence north seventy-one degrees forty-nine minutes west one  
 18 dred and ninety-one feet to a stake at the south side of the dike;  
 17 thence north forty-six degrees thirty-four minutes west one hun-  
 16 west three hundred feet to a stake at the south side of the dike;  
 15 the dike; thence north thirty-three degrees fifty-four minutes  
 14 two hundred and sixty-nine feet to a stake at the south side of  
 13 edge of the dike; thence north forty degrees nine minutes west  
 12 west six hundred and eighty-nine feet to a stake at the southern  
 11-4 the dike thence north twenty-one degrees fifty-eight minutes  
 11-c three hundred and fifty-four feet to a stake at the southern edge of  
 11-b of the dike; thence north twenty-five degrees six minutes west  
 11-a of the dike; thence north twenty-five degrees six minutes west  
 10-41 four hundred and twenty-six feet to a stake at the southern edge  
 10 the dike; thence north forty degrees fifty-seven minutes west  
 9 five hundred and seventy feet to a stake at the southern edge of  
 8 Ohio railroad, north forty-two degrees fifty-two minutes east  
 7 block M; thence crossing Buffalo creek and the Baltimore and  
 6 feet to the right of the southeast corner of lot number thirty-nine,  
 5 minutes east four hundred and thirty-five feet to a stake eight  
 4 left at right angles; thence north sixty-one degrees, fifty-six  
 3 per of lot number two, block No. N, twenty-eight feet to the  
 21 eighteen feet to a stake in a Homewood street, the southeast cor-  
 20 eighty-six degrees thirty-four minutes east five hundred and  
 19 of the concrete bridge over Flaggy Meadow run; thence south  
 18 eighty-five feet to a stake, three feet from the northwest corner  
 17 seventy-six degrees fifty-four minutes east eight hundred and  
 16 of well number three on said J. W. Phillips tract; thence north  
 15 five hundred and fifty-five feet to a stake twenty feet to the left  
 14 thence south fourteen degrees fourteen minutes east one thousand

2 hundred and nineteen, and on said day of every succeeding year,  
3 there shall be elected by the qualified voters of said city a mayor,  
4 chief of police, who shall be ex-officio collector, and three audi-  
5 tors, who shall hold their respective offices for one year and until  
6 their successors shall be elected and qualified.

Sec. 9. On the same day two members of the council shall  
2 be elected in each ward in said city who shall reside in the ward  
3 for which they are elected, and the candidate receiving the high-  
4 est number of votes shall be elected for two years, from the first  
5 day in April, succeeding his election, and the candidate receiving  
6 the next highest number of votes shall be elected for one year  
7 from the first day in April succeeding his election. And on the  
8 same day of each succeeding year one member of the council  
9 shall be elected in each ward in the said city whose term of office  
10 shall be for two years from the first day of April succeeding his  
11 election, and until his successor shall be elected and qualified.  
12 Each ward shall constitute an election precinct, and the council-  
13 shall establish a voting place in each, and the election of council-  
14 men shall be by wards. No voter shall be entitled to vote at any  
15 city election except in the ward in which he resides, and if any  
16 voter shall vote for any person for councilman who is not a  
17 resident of the ward in which he is voted for, such vote or votes  
18 shall not be counted for such person or persons.

Sec. 10. Every male person residing in said city shall be  
2 entitled to vote for all officers elected under this act, but no per-  
3 son who is a minor or of unsound mind, or a pauper, or who is  
4 under a conviction of treason, felony or bribery in an election,  
5 or who has not been a resident of this state for one year, and of  
6 the city of Mankato for sixty days, and is a bona fide resident  
7 of the ward in which he offers to vote, and each voter shall be  
8 entitled to vote for only two auditors.

Sec. 11. In all the elections by the people the mode of voting  
2 shall be by ballot; but the voter shall be left free to vote by open,  
3 sealed or secret ballot, as he may elect. The election in said city  
4 shall be held and conducted and the result thereof certified, re-  
5 turned and finally determined under the laws in force in this  
6 state, relating to general elections, on the date of the passage of  
7 this act. The corporate authorities of said city shall perform the  
8 duties in relation to such election required by general law of  
9 county courts and officers on the date of the passage of this act.

22 hundred and ninety years, and on said day of every succeeding year,  
 33 there shall be elected by the qualified voters of said city a mayor,  
 44 chief of police, who shall be ex officio collector, and there shall  
 55 four, who shall hold their respective offices for one year and until  
 66 their successors shall be elected and qualified.

Sec. 99. On the same day two members of the council shall  
 22 be elected in each ward in said city who shall reside in the ward  
 33 for which they are elected, and the council shall receive the highest  
 44 estimate of votes shall be elected for two years, from the first  
 55 day in April, succeeding his election, and the council shall receive  
 66 the next highest estimate of votes shall be elected for one year  
 77 from the first day in April succeeding his election. And on the  
 88 same day of each succeeding year one member of the council  
 99 shall be elected in each ward in the said city who shall be ex officio  
 100 shall be for two years from the first day of April succeeding his  
 111 election, and until his successor shall be elected and qualified.  
 122 Each ward shall constitute a election precinct, and the council  
 133 shall establish the voting place in each, and the election of council-  
 144 men shall be by wards. No voters shall be entitled to vote at any  
 155 city election except in the ward in which he resides, and if any  
 166 voter shall vote for any person for councilman who is not a  
 177 resident of the ward in which he is voted for, such vote or votes  
 188 shall not be counted if on such person or persons.

Sec. 100. Every male person residing in said city shall be  
 22 entitled to vote of all officers elected under this act, but no per-  
 33 son who is a minor or of unsound mind, or a pauper, or who is  
 44 under a conviction of treason, felony or bribery in an election,  
 55 or who has not become a resident of this state for one year, and of  
 66 the city of Birmingham for sixty days, and is a *bona fide* resident  
 77 of the ward in which he offers to vote, and each voter shall be  
 88 entitled to vote of only two additions.

Sec. 111. In all the elections by the people the mode of voting  
 22 shall be by ballot; but the voters shall be free to vote by ballot,  
 33 or by ballot, or by ballot, or by ballot. The election in said city  
 44 shall be held and conducted and the result thereof certified, re-  
 55 turned and finally determined under the laws in force in this  
 66 state, relating to general elections, on the date of the passage of  
 77 this act. The appropriate authorities of said city shall perform the  
 88 duties in relation to such election required by general law of  
 99 county courts and officers on the date of the passage of this act,

10 and the provisions of chapter three of the code of West Virginia,  
11 and any amendments to said chapter, in force on the date of the  
12 passage of this act concerning elections by the people shall apply  
13 to such election and be applicable hereto and the penalties  
14 therein prescribed for offenders relating to elections shall be en-  
15 forced against the offenders in such cases as to elections and said  
16 act and its amendments shall have the same force and effect as if  
17 it were especially applicable to such cases as to elections.

Sec. 12. Whenever two or more persons shall receive an  
2 equal number of votes for councilmen at the next city elections, such  
3 tie shall be decided by the council in the bag.

Sec. 13. All contested elections shall be heard and decided  
2 by the common council for the time being, and the contests shall  
3 be made and conducted in the same manner as provided for in  
4 contests for county and district officers, and the common coun-  
5 cil shall conduct the proceedings in such cases as early as  
6 practicable in conformity with the proceedings of the county  
7 court in such cases.

Sec. 14. Whenever a vacancy shall occur from any cause in  
2 the office of mayor, councilman, chief of police and a chief of col-  
3 lector, street commissioner, superintendent of water works or city  
4 assessor, the council for the time being shall by a vote of the  
5 majority of those present, fill the vacancy until the next election,  
6 at which time a successor to fill the unexpired term of such office  
7 shall be elected by the people, or be appointed by the council.

Sec. 15. The street commissioner, superintendent of water  
2 works, city attorney, city physician, city surveyor, city assessor,  
3 and clerk shall be appointed by the council. The council shall also  
4 have authority to provide by ordinance for the appointment of such  
5 officers as shall be necessary and proper to carry into full force any  
6 authority, power, capacity or jurisdiction which is or shall be vested  
7 in the said city, or in the council, or in the mayor, or any other of-  
8 ficer or body of officers thereof, and to grant to the officers so ap-  
9 pointed the power necessary or proper for the purpose above men-  
10 tioned. The council shall by ordinance define the duties of all  
11 officers so appointed or elected as aforesaid and allow them reason-  
12 able compensation, which shall be by monthly or annual salaries,  
13 and not otherwise, and which compensation shall not be increased  
14 or diminished during their term of office and shall require and take  
15 from all of such officers, when elected or appointed, the duty  
16 it shall be to receive its funds, assets or property, be in charge of

10 and the provisions of chapter three of the code of West Virginia,  
 11 and any amendments to said chapter, in effect on the date of the  
 12 passage of this act concerning elections by the people, shall gov-  
 13 ern such election and be applicable thereto, and the penalties  
 14 therein prescribed for offenders relating to elections shall be en-  
 15 forced against the offenders at such corporate elections, and said  
 16 act and its amendments shall have the same force and effect as if  
 17 it were specially applicable to such corporate elections.

Sec. 12. Whenever two or more persons shall receive an  
 2 equal number of votes for councilmen or other city officers, such  
 3 tie shall be decided by the council in being.

Sec. 13. All contested elections shall be heard and decided  
 2 by the common council for the time being; and the contest shall  
 3 be made and conducted in the same manner as provided for in  
 4 contests for county and district officers; and the common coun-  
 5 cil shall conduct their proceedings in such cases as nearly as  
 6 practicable in conformity with the proceedings of the county  
 7 court in such cases.

Sec. 14. Whenever a vacancy shall occur from any cause in  
 2 the office of mayor, councilman, chief of police and ex-officio col-  
 3 lector, street commissioner, superintendent of water works or city  
 4 assessor, the council for the time being shall, by a vote of the  
 5 majority of those present, fill the vacancy until the next election,  
 6 at which time a successor to fill the unexpired term of such office  
 7 shall be elected by the people, or be appointed by the council.

Sec. 15. The street commissioner, superintendent of water  
 2 works, city attorney, city physician, city surveyor, city assessor,  
 3 and clerk shall be appointed by the council. The council shall also  
 4 have authority to provide by ordinance for the appointment of such  
 5 officers as shall be necessary and proper to carry into full force any  
 6 authority, power, capacity or jurisdiction which is or shall be vested  
 7 in the said city or in the council, or in the mayor, or any other of-  
 8 ficer or body of officers thereof; and to grant to the officers so ap-  
 9 pointed the power necessary or proper for the purpose above men-  
 10 tioned. The council shall, by ordinance, define the duties of all  
 11 officers so appointed or elected as aforesaid, and allow them reason-  
 12 able compensation, which shall be by monthly or annual salaries,  
 13 and not otherwise; and which compensation shall not be increased  
 14 or diminished during their term of office and shall redire and take  
 15 from all of such officers, whether elected or appointed, whose duty  
 16 it shall be to receive its funds, assets or property, or have charge of

23 fines; penalties and costs imposed by him, or he may require the im-  
 24 mediate payment thereof, and in default of such payment he may  
 25 commit the party in default to the jail of the county of Marion or  
 26 other place of imprisonment in such corporation, if there be one,  
 27 until the fine or penalty and costs shall be paid, but the term of  
 28 imprisonment in such cases shall not exceed thirty days. And in  
 29 all cases where a person is sentenced to imprisonment or to the pay-  
 30 ment of a fine of ten dollars or more (and in no case shall a judg-  
 31 ment for a fine of less than ten dollars be given by the mayor if the  
 32 defendant, his agent or attorney object thereto) such person shall  
 33 be allowed an appeal from such decision to the intermediate or cir-  
 34 cuit court of Marion county, upon the execution of an appeal bond  
 35 with surety deemed sufficient by the mayor, in a penalty double the  
 36 amount of the fine and costs imposed by the mayor, with condition  
 37 that the person proposing to appeal will perform and satisfy any  
 38 judgment which may be rendered against him by the said courts on  
 39 such appeal. If such appeal be taken, the warrant of arrest, if  
 40 there be any, the transcript of judgment, the appeal bond and  
 41 other papers of the case, shall be forthwith delivered by the mayor  
 42 to the clerk of said courts, and the court shall proceed to try the  
 43 case as upon indictment or presentment, and render such judgment  
 44 including that of the costs as the law and the evidence may re-  
 45 quire. The mayor shall, from time to time, recommend to the  
 46 council such measures as he may deem needful for the welfare  
 47 of the city. The expense of maintaining any person committed  
 48 to the jail of the county by him, except it be to answer an indict-  
 49 ment or be under the provisions of sections two hundred twenty-  
 50 seven and two hundred twenty-eight of chapter fifty, of the  
 51 amended code of this state, shall be paid by the city. But the may-  
 52 or shall not receive any money belonging to the state or individ-  
 53 uals, unless he shall give the bond and security required of a jus-  
 54 tice of the peace by chapter fifty of the said code, and all the pro-  
 55 visions of said chapter relating to money received by justices shall  
 56 apply as to like moneys received by the mayor.

Sec. 31. The clerk shall keep the journal of the proceedings  
 2 of the council and have charge of and preserve the records, papers,  
 3 contracts and other documents belonging to the city; shall attend  
 4 all sessions of the police court and keep an accurate record of its  
 5 proceedings, and all judgments shall be entered by him within twen-  
 6 ty-four hours after the same are rendered. He shall also perform

23 fines, penalties and costs imposed by him, or he may require the im-  
 24 mediate payment thereof and in default of such payment he may  
 25 commit the party in default to the jail of the county of Marion or  
 26 to the place of imprisonment in such cooperation, if there be one,  
 27 until the fine or penalty and costs shall be paid, but the term of  
 28 imprisonment in such cases shall not exceed thirty days. And in  
 29 all cases where a person is sentenced to imprisonment or to the pay-  
 30 ment of a fine of ten dollars or more (and in no case shall a judg-  
 31 ment for a fine of less than ten dollars be given by the mayor if the  
 32 defendant in his plea or otherwise objects thereto) such person shall  
 33 be allowed to appeal from such decision to the intermediate or cir-  
 34 cuit court of Marion county upon the execution of an appeal bond  
 35 with surety deemed sufficient by the mayor, in a penalty double the  
 36 amount of the fine and costs imposed by the mayor, with condition  
 37 that the person proposing to appeal will perform and satisfy any  
 38 judgment which may be rendered against him by the said court on  
 39 such appeal. If such appeal be taken, the warrant of arrest, (if  
 40 there be any) the transcript of judgment, the appeal bond and  
 41 the papers of the case, shall be forthwith delivered by the mayor  
 42 to the clerk of said courts, and the court shall proceed to try the  
 43 case as upon indictment or presentment, and render such judgment  
 44 including that of the costs as the law and the evidence may re-  
 45 quire. The mayor shall, from time to time, recommend to the  
 46 council such measures as he may deem needful for the welfare  
 47 of the city. The expense of maintaining any person committed  
 48 to the jail of the county by him, except it be to answer an indict-  
 49 ment or be under the provisions of sections two hundred twenty-  
 50 seven and two hundred twenty-eight of chapter fifty, of the  
 51 amended code of this state, shall be paid by the city. But the may-  
 52 or shall not receive any money belonging to the state or individ-  
 53 uals, unless he shall give the bond and security required for a ju-  
 54 stice of the peace by chapter fifty of the said code, and all the pro-  
 55 visions of said chapter relating to money received by justices shall  
 56 apply as to the moneys received by the mayor.

Sec. 241. The clerk shall keep the journal of the proceedings  
 22 of the council and have charge of and preserve the records, papers,  
 33 contracts and other documents belonging to the city, shall attend  
 44 all sessions of the police court and keep an accurate record of its  
 55 proceedings, and all judgments shall be entered by him within twen-  
 66 ty-four hours after the same are rendered. He shall also perform



77 such other duties pertaining to the fiscal affairs of the city, or  
 78 otherwise, as may be required of him by the assessor, or by council.

Sec. 222. The presence of a majority of the council shall be  
 22 necessary to make a quorum for the transaction of business. And  
 33 in the absence of from the city, or in the case of sickness or inability  
 44 of the mayor, or during any vacancy in the office of mayor, some  
 55 members of council appointed as to do, annually, by said council at  
 66 its first regular or called meeting, shall perform the duties of mayor  
 77 which pertain to him as the chief executive of said city, and be  
 88 vested with all the power necessary for the performance of such  
 99 duties.

Sec. 223. The council shall cause to be kept by the clerk in a  
 22 well bound book, to be called the "minutes book", an accurate rec-  
 33 ord of all its proceedings, ordinances, acts, orders and resolutions;  
 44 and in another, to be called "ordinance book", accurate copies of all  
 55 general ordinances adopted by the council, both of which shall be  
 66 fully indexed and open to the inspection of any one required to pay  
 77 taxes to the city, or who may be otherwise interested. All oaths  
 88 and bonds of officers in the city, and all papers of the council, shall  
 99 be entered, filed and securely kept by the clerk. The bond of off-  
 100 ficers shall be recorded in a well bound book to be called the "rec-  
 111 ord of bonds." The clerk shall perform all such other duties as  
 122 may by ordinance of the council be prescribed. All printed copies  
 133 of such ordinances purporting to be published under authority of  
 144 the council, and transcripts of such ordinances, acts, orders and  
 155 resolutions, certified by the clerk under the seal of the city, shall  
 166 be deemed *prima facie* correct, when sought to be used in any court  
 177 or before any justice.

Sec. 224. At each meeting of the council the minutes of the  
 22 last meeting shall be read and corrected, if erroneous, and signed  
 33 by the presiding officer for the time being. Upon the call of any  
 44 member the yeas and nays on any question shall be taken and re-  
 55 corded in the journal or minutes, and the roll shall be called alphan-  
 66 betically.

Sec. 225. The mayor shall have a vote only in case of a tie.

Sec. 226. The meeting of the council shall be held at such  
 22 places and at such times as they shall from time to time ordain  
 33 and appoint, but it shall be lawful for the council, by ordinance, to  
 44 vest in any officer of said city, or in any member or number of  
 55 members of their own body, the authority to call special meetings;  
 66 and it shall, by ordinance, prescribe the mode in which notice of

7 such other duties pertaining to the fiscal affairs of the city, or  
8 otherwise, as may be required of him by this act, or by council.

Sec. 32. The presence of a majority of the council shall be  
2 necessary to make a quorum for the transaction of business. And  
3 in the absence from the city, or in the case of sickness or inability  
4 of the mayor, or during any vacancy in the office of mayor, some  
5 member of council appointed so to do, annually by said council at  
6 its first regular or called meeting, shall perform the duties of mayor  
7 which pertain to him as the chief executive of said city, and be  
8 vested with all the power necessary for the performance of such  
9 duties.

Sec. 33. The council shall cause to be kept by the clerk in a  
2 well-bound book, to be called the "minute-book," an accurate rec-  
3 ord of all its proceedings, ordinances, acts, orders and resolutions;  
4 and in another, to be called "ordinance book," accurate copies of all  
5 general ordinances adopted by the council, both of which shall be  
6 fully indexed and open to the inspection of any one required to pay  
7 taxes to the city, or who may be otherwise interested. All oaths  
8 and bonds of officers in the city, and all papers of the council, shall  
9 be endorsed, filed and securely kept by the clerk. The bond of of-  
10 ficers shall be recorded in a well-bound book to be called the "rec-  
11 ord of bonds." The clerk shall perform all such other duties as  
12 may by ordinance of the council be prescribed. All printed copies  
13 of such ordinances purporting to be published under authority of  
14 the council, and transcripts of such ordinances, acts, orders and  
15 resolutions, certified by the clerk under the seal of the city, shall  
16 be deemed prima facie correct, when sought to be used in any court  
17 or before any justice.

Sec. 34. At each meeting of the council the minutes of the  
2 last meeting shall be read and corrected, if erroneous, and signed  
3 by the presiding officer for the time being. Upon the call of any  
4 member the yeas and nays on any question shall be taken and rec-  
5 orded in the journal or minutes, and the roll shall be called alpha-  
6 betically.

Sec. 35. The mayor shall have a vote only in case of a tie.  
Sec. 36. The meeting of the council shall be held at such  
2 places and at such times as they shall from time to time ordain  
3 and appoint, but it shall be lawful for the council, by ordinance to  
4 vest in any officer of said city, or in any member or number of  
5 members of their own body, the authority to call special meetings;  
6 and it shall, by ordinance, prescribe the mode in which notice of

Sec. 31. Upon the petition, in writing, of the persons owning  
2 the greater amount of frontage of the lots abutting on any street  
3 or alley, between any two cross streets, or between a cross street and  
4 alley, the council of said city, by a lawful majority thereof, may  
5 order such part of any street or alley to be paved between the side-  
6 walks with cobblestone, brick, Belgian blocks, asphaltum or other  
7 suitable material, from one of such cross streets or alleys to the  
8 other, under such regulations as may be fixed by ordinance duly  
9 passed by council; two-thirds of the cost of such paving shall be as-  
10 sessed to the owners of the lots or fractional parts of lots abutting  
11 on that part of the street or alley so paved, in proportion to the dis-  
12 tance such lot or part of a lot abuts on such street or alley, and the  
13 remaining one-third of the cost of such paving shall be paid by the  
14 city. In making such assessments the basis shall be the cost of  
15 paving that part of the street or alley on which the property lies,  
16 included between the adjoining cross streets or alleys; and the  
17 amounts assessed against the owners of each lot or fractional part of  
18 a lot shall be in the proportion which the frontage of such lot or  
19 part of a lot bears to the whole cost of paving said street or alley  
20 between said cross streets or alleys as aforesaid.

21 There shall be a lien on all real estate within such city for the  
22 city taxes assessed thereon, from the day fixed by law for the com-  
23 mencement of the assessment of such taxes each year, and the inter-  
24 est upon such taxes at the rate of ten per centum per annum, from  
25 the first day of January next after such assessment until payment,  
26 which may be enforced by the council in the same manner now pro-  
27 vided by law for the enforcement of the lien for state or county  
28 taxes, or in such other manner as the council may by ordinance pre-  
29 scribe. There shall also be a lien on all real estate within such  
30 city for other assessments, fines and penalties assessed or imposed,  
31 which shall have priority over all other liens except the liens for  
32 taxes, and may be enforced by the council by suit in equity in the  
33 corporate name of the city in the same manner now prescribed by  
34 law for the enforcement of the lien for state or county taxes, or in  
35 such other manner as the council may by ordinance prescribe.

Sec. 32. If any real estate within said city be returned de-  
2 linquent for the nonpayment of the taxes thereon, a copy of such  
3 delinquent list may be certified by the council to the auditor and  
4 the same may be sold for the taxes, interest and commissions thereon,  
5 in the same manner, at the same time and by the same officer, as  
6 real estate is sold for the nonpayment of state taxes.

Sec. 33. The council of said city shall have the power within  
2 said city to lay off, vacate, open, close, alter, widen, extend, curb,  
3 grade, pave and keep in good repair the roads, streets, alleys, side-  
4 walks, crosswalks, drains and gutters therein, for the public use,  
5 and to improve and light the same, and have them kept free from  
6 obstruction on or over them; to regulate and determine the width  
7 of all pavements, sidewalks, streets and public alleys, and to order  
8 sidewalks, footways, and gutters to be curbed and paved and kept  
9 in good order, free and clean by the owners or occupants thereof,  
10 or the real property next adjacent thereto; *provided, however,*  
11 that nothing in this act shall be construed as to require the city  
12 of Mannington to build or keep in repair any bridge or bridges  
13 within said corporation owned by the county, and the officers of  
14 the said city, in preservation of law and order, shall have jurisdic-  
15 tion over said bridge or bridges within said corporation; to estab-  
16 lish and regulate markets, prescribe the time of holding the same,  
17 and what articles only shall be sold in said market, and prevent  
18 the forestalling of such markets; to prevent injury or annoyances  
19 to the public or to individuals from anything dangerous, offensive  
20 or unwholesome; to prohibit or regulate slaughter houses, tan  
21 houses and soap factories within the city limits; or the exercise  
22 of any unhealthful or offensive business, trade or employment;  
23 to abate all nuisances within the city limits; or to require and  
24 compel the abatement or removal thereof at the expense of the  
25 owner or occupant of the grounds on which they are placed or  
26 found; to cause to be filled up or raised or drained by or at the  
27 expense of the owner, any city lot or tract of land covered or  
28 subject to be covered by stagnant water; to prevent horses, hogs,  
29 cattle, sheep and other animals and fowls, of all kinds, from going  
30 or being at large in said city; and as one means of prevention, to  
31 provide for impounding and confining such animals and fowls,  
32 and upon failing to reclaim, for the sale thereof; to protect places  
33 of Divine worship, and preserve order in and about the premises  
34 where and when such worship is held; to prohibit any theatrical  
35 or any performance, show or exhibition which the council may  
36 deem injurious to the morals and good order of the city; to regu-  
37 late the keeping of gunpowder, nitroglycerine and other inflam-  
38 mable or dangerous substances, and prohibit the storing or keep-  
39 ing of the same in large or unsafe quantities within said city; to  
40 provide and regulate the building of houses and other structures,  
41 and determine the distance that they shall be from any street or

42 alley, and the material of which they shall be composed; to cause  
43 the removal of unsafe walls or buildings; to provide for the mak-  
44 ing and maintaining of all division fences by the owners of ad-  
45 jacent premises, and the drainage of lots or other parcels of land  
46 by proper drains and ditches by or at the expense of the owner  
47 or occupant thereof; to make regulations with respect to erecting  
48 and locating of all telephone, telegraph, electric light or other  
49 poles within said city, and the extension of any wires, lines and  
50 poles by any individual or corporation; to make regulations for  
51 guarding against danger or damage from fire; to organize one or  
52 more fire companies and provide necessary apparatus, tools, imple-  
53 ments, engines, or any of them for their use, and, in their dis-  
54 cretion, to organize and maintain a paid fire department, and to  
55 prescribe rules and regulations for the government of said fire  
56 department; to protect the persons and property of those being  
57 or residing within the city; to preserve peace and good order in  
58 said city; and for this purpose to appoint the necessary police  
59 force, temporary or permanent, to assist the chief of police in the  
60 discharge of his duties, and to prescribe rules and regulations for  
61 the government of the police department of the said city; to  
62 preserve the health of the inhabitants of said city, and for this  
63 purpose may establish a board of health, and prescribe rules and  
64 regulations for the government of said board, and to prevent the  
65 spread of contagious diseases and sickness in said city; and to  
66 this end said council may enact, prescribe and enforce strict rules  
67 of isolation and quarantine of all persons afflicted with con-  
67-a tagious or infectious diseases, as well as such persons as may be  
67-b suspected of being afflicted with such diseases, and to erect and  
68 maintain necessary building or buildings for the safe  
69 keeping and custody of such persons suffering from con-  
70 tagious diseases; to authorize and prohibit the erection of gas  
71 works or electric light works or water works in or near said city;  
72 to prevent injury of such work, or the pollution of any gas or  
73 water used or intended to be used by the public, or any individual;  
74 to provide for and regulate the weighing or measuring of hay,  
75 coal, lumber and other articles sold or kept or offered for sale  
76 within said city, and to establish rates and charges for said weigh-  
77 ing or measuring; to regulate the transportation thereof through  
78 the streets of said city; to regulate the running or speed of engines  
79 and cars within the city, and may prevent unnecessary using or  
80 blowing of any whistles on said engines or cars; to prevent  
81 the firing of guns, crackers, or any combination of gunpowder

82 or other combustibles or dangerous materials, and the throwing  
83 of fire balls within said city; to prevent the riding or driving of  
84 horses and animals, automobiles and bicycles at an improper or  
85 dangerous rate of speed within the city limits; to prevent or  
86 suppress gaming and gambling, in any form, or the operation  
87 of gaming and gambling devices, within said city limits; to  
87-a prevent or suppress vagrancy, burglary and theft; to  
88 punish for assaults and batteries; to prohibit the keeping of, or  
89 loitering, or visiting houses of illfame, or loitering in saloons or  
90 on the streets or highways; to prevent lewd or lascivious conduct  
91 and the making, sale of or exhibition of indecent pictures or  
92 other representations; to suppress or prevent the desecration of  
93 the Sabbath day; profane swearing and obscene language; to  
94 prohibit the exhibition of moving pictures of all kinds on the Sab-  
95 bath day, whether an admission fee is charged therefor or not; to  
96 prohibit the illegal sale of all intoxicating liquors, mixtures, and  
97 preparations, beer, ale, wine or drinks of like nature; to suppress  
98 or prevent the carrying of any dangerous or deadly weapons within  
99 said city; to create by ordinances such committees and boards  
100 and delegate such authority thereto as may be deemed necessary  
101 or advisable; to provide for the annual assessments of taxable  
102 persons or property in their city, including dogs kept in said city,  
103 and regulate their running at large; and to provide revenues for  
104 the city for municipal purposes, and to appropriate such revenues  
105 to its expenses; to take, acquire and hold, by condemnation, or  
106 purchase or donation, any and all real estate necessary for public  
107 purposes within said city, or adjacent thereto; *provided*, that said  
108 city shall at no time hold more than fifty acres without the  
109 corporate limits of said city, nor more than ten acres within the  
110 limits of said city; nor shall said city authorities have the right  
111 to acquire by purchase, condemnation or gifts, any land more  
112 than three miles distant from the corporate limits of said  
113 city; the common council shall have power and authority to sell  
114 and convey any of the property of the said city, either real, per-  
115 sonal or mixed, for a proper consideration, except that no part of  
116 the water works plant or system owned by said city shall be sold  
117 and conveyed until the question of such sale and conveyance shall  
118 have first been submitted to the qualified voters of said city, at a  
119 special or general city election held at the usual voting places of  
120 said city for that purpose, and shall have been approved by at  
121 least three-fifths of the legal voters of said city, cast for and

122 against the same, at the said election, notice of which said election  
123 shall be published in at least one newspaper of general cir-  
124 culation in the said city for two weeks consecutively, and said  
125 election shall be held within ten days after the expiration of the  
126 publication of said notice aforesaid; and, in such election, the  
127 conduct and returns thereof shall be as provided by law for all  
128 other elections held within said city for officers and other pur-  
129 poses; said council shall have the power to adopt rules for the  
130 transaction of business and for the government and regulation of  
131 its own body; to construct and maintain public sewers and  
132 laterals and may, in its discretion, assess upon and collect from  
133 the property benefited thereby such part of the expenses thereof as  
134 shall be deemed equitable and just by the said council; to regulate  
135 and control all conveyances for public use and hire in said city;  
136 to control the construction and repairs of all houses, bridges,  
137 culverts and sewers, the opening and construction of ditches,  
138 drains, sewers and gutters, to widen and deepen and clean the same  
139 of stagnant water and filth, and to determine at whose expense  
140 the same shall be done; to provide for shade trees, and the proper  
141 protection of the same; to define the powers, prescribe the duties  
142 and fix the term of service and compensation of all officers ap-  
143 pointed by said council; to require and take from them bonds,  
144 with such sureties and in such penalties as the council may deter-  
145 mine for the true and faithful discharge of their duties, and re-  
146 move them at their pleasure (all bonds taken by the council shall  
147 be made payable to the city by its corporate name); to grant and  
148 regulate all franchises in, upon, over and under the streets, alleys  
149 and public ways of said city, under such restrictions as shall be  
150 provided for by ordinance; but no exclusive franchise shall be  
151 granted by said council to any individual or corporation; and  
152 generally to take such measures as may be deemed necessary or  
153 advisable to protect the property, public and private, within the  
154 city; to prescribe and maintain peace, quiet and good order  
155 therein, and to preserve and promote the health, safety, comfort  
156 and well being of the inhabitants thereof; and for all of which  
157 purposes, except that of taxation, the council shall have jurisdic-  
158 tion for one mile beyond the corporate limits of said city.

Sec. 34. The council shall have authority to pass all ordi-  
2 nances (not repugnant to the constitution and laws of the United  
3 States and of this state) which shall be necessary or proper to  
4 carry into full effect and power any authority, capacity and juris-

5 diction which is or shall be granted or vested in the said city, or in  
6 the council, or in any officer or body of officers of said city, and to  
7 enforce any or all ordinances by reasonable fines and penalties,  
8 and by imprisoning the offender or offenders, and upon failure to  
9 pay any fine or penalty imposed by compelling them to labor with-  
10 out compensation on any of the public works or improvements  
11 undertaken, or to be undertaken, by said city, or to labor at any  
12 work which the city may lawfully employ labor upon, at such rate  
13 per diem as the council may fix, but not at a less rate than is fixed  
14 by said city council for like labor from other employees of said  
15 city, until any fine or fines imposed upon any such offender or  
16 offenders by said city shall have been fully paid and discharged,  
17 after deducting charges of support while in the custody of the  
18 officers of said city; and all ordinances relating to licenses, and the  
19 keeping of, or dwelling or loitering in houses of ill fame, and such  
20 police regulations as may be ordained of said city, and the right  
21 and power to enforce the same shall extend one mile in the state of  
22 West Virginia beyond the corporate limits of the said city; *pro-*  
23 *vided, however,* that no fine shall be imposed exceeding two hun-  
24 dred dollars, and that no person shall be imprisoned or compelled  
25 to labor, as aforesaid, for more than sixty days for any one offense.  
26 In all cases where a fine is imposed for an amount exceeding ten  
27 dollars, or a person be imprisoned or compelled to labor as afore-  
28 said for a term greater than ten days, an appeal may be taken from  
29 any such decision, upon the same terms and conditions that appeals  
30 are taken from the judgment of a justice of this state. Such fines  
31 and penalties shall be imposed and recovered, and such imprison-  
32 ments inflicted and enforced by and under the judgment of the  
33 mayor of the city, or in case of his absence or inability to act, by  
34 a member of the council, appointed by the council for that purpose,  
35 and as required by section twenty-two of this act.

36 In addition to the powers above enumerated, the said city  
37 council shall have power to provide, contract for and construct an  
38 adequate sewerage system for said city; and have power to improve,  
38-a amplify and expand the water works of, and to contract for an  
38-b adequate supply of pure, healthful water for said city, and do all  
39 things necessary to adequately supply said city with pure, whole-  
40 some water; and there is hereby granted to said city the right and  
41 privilege, under the direction and supervision of its council, to  
42 furnish water to consumers residing in territory contiguous to but  
43 outside of the corporate limits of said city, and within one mile



44 thereof; *provided*, any water so furnished is furnished upon the  
45 same terms and conditions that it is furnished to consumers within  
46 said city, and through mains and lines connected to the mains and  
47 lines within said city; and the same rights, privileges and powers  
48 are hereby granted to said city to collect water rents and deposits  
49 for all water so furnished to consumers residing without said city  
50 as it now has to collect water rents and deposits within its cor-  
51 porate limits.

Sec. 35. That said city council shall have and is hereby  
2 granted, exclusive control of all licenses required by law, and all  
3 such other licenses it may see fit to impose and require within the  
4 corporate limits of said city, not contrary to the constitution of  
5 the state of West Virginia. And in case of any such license  
6 granted by said city council, it shall not be necessary for the per-  
7 son or persons, or corporation, holding the same to apply for,  
8 obtain or hold any state license or other additional license from  
9 the county court of Marion county, West Virginia, for the carry-  
11 ing on or conducting the business so licensed by said city council.  
12 But the person, persons or corporations so licensed by said city  
13 council shall not be exempt from paying the usual state license  
14 required by law. When any such license as hereinbefore men-  
15 tioned is granted by said city council, said council may impose a  
16 tax thereon for the use of the city in conformity with the re-  
17 quirements of the state law. The said city council shall, upon  
18 granting any such license required by law, within ten days there-  
19 after, furnish to the clerk of the county court, the prosecuting  
20 attorney, and the assessor of Marion county, duly certified copies,  
21 under the corporate seal of the said city, of the order granting  
22 every such license, whereupon such assessor shall cause the sheriff  
23 of Marion county to collect the state tax thereon, in the same  
24 manner as if said license was granted by the county court of  
25 Marion county, West Virginia.

26 The council shall have, and is hereby granted authority to  
27 license and tax owners of horses, hacks, carts, wagons, drays,  
28 automobiles, bicycles, motorcycles and every description of  
29 wheeled vehicles kept within the said city, and to subject the same  
30 to such regulations as the interest, convenience and public safety  
31 of the inhabitants of said city may require; to require a city  
32 license for the selling and handling of soft drinks of all kinds,  
33 and to impose a tax thereon for the use of the city, but the grant-

34 ing or refusing such soft-drink license shall be discretionary with  
35 the council; to license and tax owners and keepers of dogs within  
36 the city, and to provide for the killing of dogs, the keeping of  
37 which is not so licensed; to license and tax hawkers, peddlers,  
38 book-agents and canvassers of all kinds within said city, and  
39 persons who temporarily station themselves upon a street to sell  
40 or exhibit articles; and to require a city license for persons con-  
41 ducting and carrying on any business or vocation for which the  
42 state may now or hereafter require a license.

Sec. 36. A book, well bound and indexed, to be denominated  
2 the "docket" shall be kept in the office of the mayor, in which  
3 shall be noted each case brought before or tried by him, together  
4 with the proceedings therein, including a statement of the com-  
5 plaint, the summons, the return, the fact of appearance or non-  
6 appearance, the defense, the hearing, the judgment, the costs, and  
7 in case the judgment be one of conviction, the action taken to en-  
8 force the same. The record of each case shall be signed by the  
9 mayor, and the original papers thereof, if no appeal be taken,  
10 shall be kept together and preserved in his office, and the mayor  
11 shall deliver to his successor the docket and all books pertaining  
12 to his office.

Sec. 37. The council shall cause to be made up annually  
2 and spread upon its minute book an accurate estimate of all sums  
3 which are or may become lawfully chargeable against the city,  
4 and which ought to be paid within one year, and it shall order a  
5 levy of so much as will in its judgment be necessary to pay the  
6 same. Such levy shall be upon all tithables and upon all real and  
7 personal property therein subject to state and county taxes, in-  
8 cluding a poll tax of not more than one dollar upon each male  
9 resident of said corporation over twenty-one years of age; *pro-*  
10 *vided*, that such levy shall not exceed one dollar on each tithable  
11 and one dollar on every one hundred dollars of the ascertained  
12 value of such property. At least once in each year the council  
13 shall cause to be made up and be published in one or more news-  
14 papers of the city a statement of the revenue received from the  
15 different sources, and of the expenditures upon the different ac-  
16 counts for the preceding year or portion of year, as the case may  
17 be.

Sec. 38. It shall be the duty of the assessor to make an  
2 assessment of the property within the city subject to taxation sub-

3 stantially in the manner and form in which the assessments are  
4 made by the assessor of the county, and return the same to council  
5 on or before the first day of June of each year, and for this pur-  
6 pose he shall have all the powers conferred by law on county  
7 assessors. He shall list the number of dogs in the city, and the  
8 names of persons owning the same, which list shall be returned to  
9 the council (see chapter forty-seven, section forty-one, code of  
10 West Virginia). In order to aid the said council in ascertaining  
11 the property and tithables subject to taxation by said city, the  
12 assessor of said city shall have access to all books and public  
13 records of Marion county, without expense to said city, or as-  
14 sessor, and he also shall have the same power and be subject to  
15 the same penalties in ascertaining and assessing the property  
16 and subjects of taxation in said city as are granted and imposed  
17 upon the county assessors throughout the state by general law,  
18 and the council shall also have authority to prescribe by ordi-  
19 nance such other rules and regulations as may be necessary to  
20 enable and require such assessor to ascertain and properly assess  
21 all property and tithables liable to be taxed by said city, so that  
22 such assessment and taxation shall be uniform, and to enforce  
23 such ordinance by reasonable fines and penalties. And the said  
24 city assessor, in making his valuation for assessments, shall make  
25 the same valuation for both real and personal property as the  
26 assessor for said county, for the same assessment year, assessed  
27 said property.

28       The council upon the return of the assessor shall cause the  
29 assessor's books to be correctly copied by the clerk into two well-  
30 bound books to be provided for the purpose and the taxes ex-  
31 tended in each book, one of which shall be delivered to the city  
32 collector, taking his receipt therefor, as well as for the taxes  
33 therein contained.

Sec. 39. It shall be the duty of the chief of police and *ex-*  
2 *officio* collector when the extended copies are completed, to re-  
3 ceive one copy thereof, receipting to the council for the same,  
4 and for the taxes therein extended; and it shall be his duty to  
5 collect from the parties the entire amount of the taxes with-  
6 which they are therein severally charged, from and after the  
7 first day of September of each year, until the last day of De-  
8 cember of each year; and he shall, in said book, write the word  
9 "paid" opposite the name of the person so paying, and shall also

10 receipt to such taxpayer for the tax so paid. He shall also receive  
11-12 such other moneys of the city as he is authorized by this act  
13 giving receipts therefor to the parties paying, and shall keep an  
14 accurate account of the same; and his books shall at all times be  
15 open for inspection to any taxpayer of the city; and he shall  
16 produce said books to said council for inspection at any meeting  
17 thereof upon order of the council. He shall pay out the moneys  
18 in his hands upon the orders of the council signed by the mayor.

19 He shall on or before the tenth day of January of each year  
20 present to the council a full, complete and detailed statement of  
21 all moneys with which he is chargeable, or that have been re-  
22 ceived by him up to the first day of January of that year, and  
23 shall at the same time, in like manner, furnish a statement of all  
24 disbursements made by him during such previous year, with  
25 vouchers evidencing the same. He shall, upon the order of the  
26 council at any time, submit a statement of the amount with which  
27 he is chargeable, and his collections and disbursements. He shall  
28 receive all taxes upon licenses, and receipt to the party paying  
29 the same, by the indorsement upon the permit granted by order  
30 of the council, which permit shall be furnished him by the clerk.  
31 and charge himself with the amount so received, and report to  
32 the council at its next regular meeting thereafter the amount so  
33 received by him.

34 He shall, upon the expiration of his term of office, turn over  
35 to the council all moneys, books and other property in his posses-  
36 sion belonging to said city; and shall, before entering upon the  
37 duties of his office, execute a bond with good security payable to  
38 the city of Mannington, in the penalty of not less than ten  
39 thousand dollars, conditioned for the faithful performance of the  
40 duties of his office, and for the accounting for and paying as re-  
41 quired by law all money which may come into his hands by virtue  
42 of his office. He shall be chargeable with all city taxes, levies  
43 and assessments and money of the city that may come into his  
44 hands, and shall account therefor.

45 The said chief of police and *ex-officio* collector shall receive  
46 for his services as chief of police and *ex-officio* collector such  
47 salary as may be fixed by council from term to term; but said  
48 salary shall for all said services in no event exceed the sum of  
49 one hundred dollars per month.

Sec. 40. The council shall prescribe by ordinance the man-

ner in which licenses of all kinds shall be applied for and granted, and it shall require the payment of the tax thereon before delivery to the person applying therefor.

Sec. 41. The provisions of the thirty-ninth section of chapter thirty-two of Barnes' code of West Virginia for one thousand nine hundred and eighteen, relating to state licenses, shall be deemed applicable to licenses of a similar character to those therein mentioned, when granted by or under authority of the council of said city, and all other licenses may be for such time as the council may determine.

Sec. 42. The council shall have the right to institute proceedings in the name of the city for the condemnation of real estate for streets, alleys, drains, market grounds, city prison and other work or purpose of public utility. Such proceedings shall, as nearly as practicable, conform to the provisions of chapter forty-two of the code of West Virginia, and the expenses thereof shall be borne by the city.

Sec. 43. All acts or parts of acts inconsistent with this act are hereby repealed; but this act shall not be construed to repeal, change or modify any previous act not inconsistent with this act authorizing the city of Mannington to contract debts, or to borrow money, or to take away any of the powers conferred upon said city of Mannington, or upon the mayor or council, or any of the officers, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

Sec. 44. The council in being at the time this act shall take effect, shall appoint and provide places for voting in the several wards in said city, as herein prescribed, for the election herein provided for to be held in said city and appoint the election officers thereof; and shall pass all proper ordinances and orders to give this act full force and effect.

Sec. 45. The ordinances in force in the city of Mannington at the time this act takes effect, so far as they are not inconsistent with this act, shall continue in force as the ordinances of the city of Mannington as constituted by this act until amended, repealed or superseded by the council of said city.

Sec. 46. The said city shall succeed to all the rights, powers and responsibilities it has under its present charter, and all officers of said city acting as such at the time this act takes effect shall continue until the first day of April, one thousand

5 nine hundred and nineteen (and until their successors, the officers  
6 herein mentioned, are elected, appointed and qualified), to exer-  
7 cise the powers, perform the duties and receive the compensation  
8 heretofore conferred, prescribed and allowed by former charter,  
9 by general law, or by the ordinances of said city.

Sec. 47. This act shall not become and be effective until the  
2 same shall have been submitted for adoption or rejection to the  
3 duly qualified voters living within the territory embraced in sec-  
3 tion two hereof, at a special election called for that purpose and  
4 shall have been adopted by a majority of the votes cast at said  
5 election; at which election all persons living within said territory,  
6 but outside of the city of Mannington as it was constituted im-  
7 mediately prior to the passage of this act, shall be entitled to vote  
8 as if they lived within the said city as it was constituted immediate-  
9 ly prior to the passage of this act. Said special election shall be  
10 held as soon as possible after notice of the same has been published  
11 at least twice in some daily newspaper published in the city of  
12 Mannington, to be designated by the common council of the city  
13 of Mannington, the last publication of said notice to be made not  
14 less than ten days immediately preceding the date of the said  
15 election. Said notice shall also give notice to the provisions of  
16 sections two and three of this act by publishing the same in full as  
17 part of said election notice, together with a statement to the  
18 effect that a certified copy of the whole act as passed is on file and  
19 may be inspected by all voters living within the affected territory  
20 at the office of the mayor of the city of Mannington; and it shall  
21 be the duty of the common council of the city of Mannington to  
22 secure one or more certified copies of the act and keep, or cause  
23 the same to be kept, in the said mayor's office for the inspection  
24 of the said voters, from the date of the first publication of the said  
25 notice until the said election shall have been held. Said special  
26 election shall be arranged for, held, and conducted, and the result  
27 thereof ascertained, certified and published in the usual and regular  
28 manner of arranging for, holding and conducting municipal elec-  
29 tions in the city of Mannington and ascertaining, certifying and  
30 publishing the results thereof and the authority of the officials of  
31 the city of Mannington to arrange for, hold and conduct a munic-  
32 ipal election therein, and to ascertain, certify and publish the  
33 results thereof, is hereby extended to cover all the territory em-  
34 braced in section two hereof, for all purposes of the special election

35 hereby provided for. At said special election any person entitled  
36 to vote thereat who lives outside of the city of Mannington, as it  
37 was constituted immediately prior to the passage of this act, shall  
38 vote at his usual voting place in said city, if he has been accustom-  
39 ed to vote at some voting precinct therein at any general election ;  
40 but if not accustomed to vote at some voting precinct he shall vote  
41 at that regular voting precinct in the said city which is nearest  
42 his place of residence.

43 If this act shall be adopted at said special election it shall go  
44 into effect the day following its adoption at said election.

45 The ballot to be voted at said election shall be printed upon  
46 plain white paper and in the following form :

47 CITY OF MANNINGTON.

48 *Charter Election.*

49 Indicate how you desire to vote by a cross in the square.

50 [     ] "For adoption of new charter."

51 [     ] "Against adoption of new charter."

52 *Provided, however,* that if this act shall fail of adoption at  
53 said election, the same may be voted upon at a subsequent election,  
54 called by the common council of said city, to be held and conducted  
55 in the manner above set forth, and after notice as above set forth ;  
56 but no such subsequent election shall be held until a period of six  
57 months shall have elapsed after any former election held for that  
58 purpose ; and

59 *Provided, further,* that if the common council of said city  
60 shall fail or refuse to call a subsequent election for that purpose,  
61 then, upon petition signed by the qualified voters of said city, equal  
62 in number to at least thirty per centum of the entire vote cast for  
63 the candidate for mayor who received the highest number of votes  
64 at the last preceding municipal election, said common council  
65 shall, by a proper order, call a special election for that purpose.  
66 And if this act shall fail of adoption at the first special election  
67 held for that purpose as herein provided, then it shall take effect  
68 from the day immediately following its adoption at such subse-  
69 quent election.

Sec. 48. If for any reason this act fails to take effect by the  
2 time the common council and their officers are to be nominated  
3 in said city under existing laws for the election to be held on the  
4 second Monday in March, one thousand nine hundred and nine-  
5 teen, or any subsequent general election, then the mayor and

6 council in office at the time this act does take effect, shall speedily  
7 cause an election to be held in said city to elect the officers pro-  
8 vided for in this act, after giving notice at least twenty days, prior  
9 to the date fixed for said election, by publishing the same in some  
10 newspaper, published in said city, which notice shall state the  
11 purpose of said election. If such special election is held, all per-  
12 sons holding office under the next preceding election, shall vacate  
13 such office immediately, and other officers shall hold office at the  
14 pleasure of the common council notwithstanding they were elected  
15 and appointed under existing law for specified terms.

Sec. 49. If this act be adopted and for any reason fails to  
2 take effect on or before April first, one thousand nine hundred and  
3 nineteen, or on the first day of April of any subsequent year, it  
4 shall be the duty of the assessor in office at the time this act takes  
5 effect, or his successor, to make an assessment as provided in this  
6 act of all the property within the city limits as herein constituted.  
7 And if this act fails to take effect on or before April first, one  
8 thousand nine hundred and nineteen, or on the first day of April of  
9 any subsequent year, the council in making its levy, as in this act  
10 provided, for the year one thousand nine hundred and nineteen, or  
11 any subsequent year thereafter, upon all tithables and upon all  
12 real estate and personal property, subject to state and county taxes,  
13 within the city limits as in this act constituted, shall reduce its  
14 levy upon all tithables and upon all real estate and personal  
15 property in the territory included within the corporate limits of  
16 said city as in this act constituted, and not included in the corpo-  
17 rate limits of said city under existing law, in the proportion that  
18 the time of said assessment year elapsed before this act takes effect  
19 bears to the whole assessment year.

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## House Bill No. 177

AN ACT to amend and re-enact sections three, four, five, nine, ten,  
eleven, thirteen, fourteen, fifteen, thirty-five, thirty-six, fifty-one,  
seventy-five, eighty-eight and ninety-three of chapter one of the  
acts of the legislature of one thousand nine hundred and fifteen  
and bound in a volume of municipal charters of such acts and  
known as the "Charter of the City of Charleston," and to add  
sections ninety-four, ninety-five, ninety-six, ninety-seven and



ninety-eight, ninety-nine, one hundred, one hundred and one and one hundred and two, all relating to and becoming a part of the charter of the city of Charleston.

*Be it Enacted by the Legislature of West Virginia:*

That sections three, four, five, nine, ten, eleven, thirteen, fourteen, fifteen, thirty-five, thirty-six, fifty-one, seventy-five, eighty-eight and ninety-three of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, known as the "Charter of the City of Charleston" be amended and re-enacted, and sections ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, and one hundred and two be added thereto, so as to read as follows:

*Boundaries of Wards.*

Section 3. The said city shall be divided into fifteen (15)

2 wards, the boundaries of which shall be as follows:

3 *First Ward:* The first ward shall include the following terri-  
4 tory; beginning at low water mark on the Kanawha river at the  
5 end of Florida street; thence with Florida street to Charleston  
6 street, and in a continuous straight line to the corporation line on  
7 the north; thence with the corporation line to Patric street, and  
8 with Patric street to the Kanawha river, and with the Kanawha  
9 river to the end of Florida street, the place of beginning.

10 *Second Ward:* The second ward shall include the following ter-  
11 ritory; beginning at the low water mark at the end of Florida  
12 street; thence with the Kanawha river to the end of Park avenue  
13 extended; thence with Park avenue to the corporation line; thence  
14 with the corporation line to the northeastern corner of the first  
15 ward; thence with the eastern line of ward one in a straight  
16 line with Florida street; to the low water mark in Kanawha  
17 river to place of beginning.

18-19 *Third Ward:* The third ward shall include the following ter-  
20 ritory; beginning at the low water mark in the Kanawha river at  
21 the end of Park avenue extended; thence with the Kanawha river  
22 to Delaware avenue; thence with Delaware avenue to the Kanawha  
23 & Michigan railway; thence with the Kanawha & Michigan rail-  
24 way to Charleston street; thence with Charleston street to Carr  
25 street; thence with Carr street to the corporation lines on the  
26 north; thence with the corporation lines to the northeastern cor-  
27 ner of ward two; thence following the eastern line of ward  
28 two to low water mark in Kanawha river, the place of beginning.

29       *Fourth Ward:* The fourth ward shall include the follow-  
30 ing territory: Beginning at the low water mark in Kanawha  
31 river at the end of Delaware avenue; thence with Kanawha river  
32 to the mouth of Elk river, and up Elk river to Lovell street bridge  
33 and Charleston street; thence with Charleston street to Penn-  
34 sylvania avenue; thence with Pennsylvania avenue to Roane  
35 street; thence with Roane street to Delaware avenue; thence with  
36 Delaware avenue to the low water mark in Kanawha river, to  
37 place of beginning.

38       *Fifth Ward:* The fifth ward shall include the following  
39 territory: Beginning at the low water mark in Elk river at  
40 Lovell street bridge; thence with Elk river to the Kanawha &  
41 Michigan railway; thence with the Kanawha & Michigan railway  
42 to Pine street; thence with Pine street to the corporation line on  
43 the north; thence with the corporation line to the head of Carr  
44 street; thence with Carr street to Charleston street; thence with  
45 Charleston street to the Kanawha & Michigan railway; thence  
46 with the Kanawha & Michigan railway to Delaware avenue;  
47 thence with Delaware avenue to Roane street; thence with Roane  
48 street to Pennsylvania avenue; thence with Pennsylvania avenue  
49 to Charleston street; thence with Charleston street to low water  
50 mark in Elk river, the place of beginning.

51       *Sixth Ward:* The sixth ward shall include the following  
52 territory: Beginning at the low water mark in Elk river at the  
53 Kanawha & Michigan bridge; thence with the Elk river to Gill  
54 hollow; thence following the corporation lines to the northeastern  
55 corner of ward five; thence with Pine street to the Kanawha  
56 & Michigan railway; thence with the Kanawha & Michigan rail-  
57 way to the low water mark in Elk river at the Kanawha & Michi-  
58 gan railway bridge, the place of beginning.

59       *Seventh Ward:* The seventh ward shall include the follow-  
60 ing territory: Beginning at the low water mark in Elk river at  
61 Lovell street bridge; thence with Lovell street to Truslow street;  
62 thence with Truslow street to Margaret street; thence with Mar-  
63 garet street to Donnally street; and the intersection of Young  
64 street; thence with Young street in a continuous straight line to  
65 the corporation limits on the north; thence with the corporation  
66 line to Elk river; thence with Elk river to the low water mark at  
67 Lovell street bridge, the place of beginning.

68       *Eighth Ward:* The eighth ward shall include the following  
69 territory: Beginning at the intersection of Lovell and Truslow

70 streets; thence with Truslow street to State street; thence with  
71 State street to Capitol street; thence with Capitol street to Smith  
72 street, and continuing in a straight line to the corporation line  
73 on the north; thence with the corporation line to the northeastern  
74 corner of ward seven; thence in a straight line with Young  
75 street to Donnally street; at its intersection with Margaret street;  
76 thence with Margaret street to Truslow street; thence with Trus-  
77 low street to Lovell street, the place of beginning.

78 *Ninth Ward:* The ninth ward shall include the following  
79 territory: Beginning at the low water mark in Elk river and  
80 Lovell street bridge; thence with Elk river to the Kanawha river;  
81 thence with Kanawha river to the low water mark at the end of  
82 Capitol street; thence with Capitol street to State street; thence  
83 with State street to Truslow street; thence with Truslow street to  
84 Lovell street; thence with Lovell street to the low water mark in  
85 Elk river, at Lovell street bridge, the place of beginning.

86 *Tenth Ward:* The tenth ward shall include the following  
87 territory: Beginning at the low water mark in Kanawha river  
88 at the end of Capitol street; thence with Kanawha river to the  
89 low water mark at the end of Ruffner avenue; thence with Ruff-  
90 ner avenue to its intersection with Lee street; thence with Lee  
91 street to its intersection with Capitol street; thence with Capitol  
92 street to the low water mark in Kanawha river, the place of be-  
93 ginning.

94 *Eleventh Ward:* The eleventh ward shall include the fol-  
95 lowing territory: Beginning at the intersection of Lee street  
96 and Capitol street; thence with Capitol street to its intersection  
97 with Smith and Dryden streets, and in a continuous straight line  
98 in the corporate limits on the north; thence with the corporation  
99 limits in an easterly direction, to a point reached by a straight  
100 line running with Brooks street; thence in a straight line running  
101 to and with Brooks street to the intersection of Brooks and Lee  
102 streets; thence with Lee street to Capitol street, the place of be-  
103 ginning.

104 *Twelfth Ward:* The twelfth ward shall include the fol-  
105 lowing territory: Beginning at the intersection of Lee and  
106 Brooks streets; thence with Lee street to Beauregard street;  
107 thence with Beauregard street, and in a straight line to the cor-  
108 poration limits to the north; thence with the corporation limits to  
109 the northeastern corner of ward eleven; thence with the eastern  
110 line of ward eleven, in a straight line, and with Brooks street, to

111 the intersection of Lee and Brooks street, the place of beginning.

112     *Thirteenth Ward:* The thirteenth ward shall include the  
113 following territory: Beginning at the intersection of Beaure-  
114 gard and Lee streets; thence with Lee street to Elizabeth street;  
115 thence with Elizabeth street to Piedmont road; and in a continu-  
116 ous straight line to the corporation limits on the north; thence  
117 with the corporation line to the northeastern corner of ward  
118 twelve; thence in a straight line to and running with Beauregard  
119 street, to the intersection of Lee and Beauregard streets, the place  
120 of beginning.

121     *Fourteenth Ward:* The fourteenth ward shall include the  
122 following territory: Beginning at the intersection of Ruffner  
123 avenue and Lee street; thence with Ruffner avenue to low water  
124 mark in Kanawha river, at the end of Ruffner avenue; thence  
125 with Kanawha river to the corporation line on the east at Wilson  
126 hollow; thence with Wilson hollow to the corporation line on the  
127 north; thence with the northern corporation line to the north-  
128 eastern corner of ward thirteen; thence in a straight line to and  
129 running with Elizabeth street, to Lee street; thence with Lee  
130 street to Ruffner avenue, the place of beginning.

131     *Fifteenth Ward:* The fifteenth ward shall include all of  
132 the territory in the limits of the city south of said low water mark  
133 on the north side of Kanawha river.

134                     *Voting Precincts.*

135     The said city shall be divided into twenty-nine (29) voting  
136 precincts, the boundaries of which shall be as follows:

137     *Precinct No. 1.* Precinct one shall include all the territory  
138 in ward one lying north of the Kanawha and Michigan railway.

139     *Precinct No. 2.* Precinct two shall include all the territory  
140 in ward one lying south of the Kanawha and Michigan Railway.

141     *Precinct No. 3.* Precinct three shall include all the territory  
142 in ward two lying north of the Kanawha and Michigan Railway.

143     *Precinct No. 4.* Precinct four shall include all the territory  
144 in ward two lying south of the Kanawha and Michigan Railway.

145     *Precinct No. 5.* Precinct five shall include all the territory  
146 in ward three lying north of Virginia street.

147     *Precinct No. 6.* Precinct six shall include all the territory  
148 in ward three lying south of Virginia street.

149     *Precinct No. 7.* Precinct seven shall include all the terri-  
150 tory in ward four lying north of Randolph street.

151      *Precinct No. 8.* Precinct eight shall include all the terri-  
152 tory in ward four lying south of Randolph street.

153      *Precinct No. 9.* Precinct nine shall include all the territory  
154 in ward five lying south of Birch street and Kanawha and Michi-  
155 gan railway.

156      *Precinct No. 10.* Precinct ten shall include all the territory  
157 in ward five lying north of Birch street and Kanawha and Michi-  
158 gan railway.

159      *Precinct No. 11.* Precinct eleven shall include all the terri-  
160 tory in ward six lying east of Magazine branch.

161      *Precinct No. 12.* Precinct twelve shall include all the terri-  
162 tory in ward six east of Magazine branch.

163      *Precinct No. 13.* Precinct thirteen shall include all the ter-  
164 ritory in ward seven south of North Rand street.

165      *Precinct No. 14.* Precinct fourteen shall include all the ter-  
166 ritory in ward seven lying north of North Rand street.

167      *Precinct No. 15.* Precinct fifteen shall include all the terri-  
168 tory in ward eight lying south of North Rand street.

169      *Precinct No. 16.* Precinct sixteen shall include all the terri-  
170 tory in ward eight lying north of North Rand street.

171      *Precinct No. 17.* Precinct seventeen shall include all the ter-  
172 ritory in ward nine lying west of Truslow street.

173      *Precinct No. 18.* Precinct eighteen shall include all the  
174 territory in ward nine lying east of Truslow street.

175      *Precinct No. 19.* Precinct nineteen shall include all the ter-  
176 ritory in ten lying west of Brooks street.

177      *Precinct No. 20.* Precinct twenty shall include all the terri-  
178 tory in ward ten lying east of Brooks street.

179      *Precinct No. 21.* Precinct twenty one shall include all the  
180 territory in ward eleven lying west of Broad street.

181      *Precinct No. 22.* Precinct twenty-two shall include all the  
182 territory in ward eleven lying east of Broad street.

183      *Precinct No. 23.* Precinct twenty-three shall include all the  
184 territory in ward twelve lying west of Morris street.

185      *Precinct No. 24.* Precinct twenty-four shall include all the  
186 territory in ward twelve lying east of Morris street.

187      *Precinct No. 25.* Precinct twenty-five shall include all the  
188 territory in ward thirteen lying west of Thompson street and a  
189 continuous straight line to corporate line on north.

190      *Precinct No. 26.* Precinct twenty-six shall include all the

191 territory in ward thirteen lying east of Thompson street and a  
192 continuous straight line from the end thereof to the corporate  
193 line on the north.

194     *Precinct No. 27.* Precinct twenty-seven shall include all the  
195 territory in ward fourteen lying west of Kentucky street.

196     *Precinct No. 28.* Precinct twenty-eight shall include all the  
197 territory in ward fourteen lying east of Kentucky street.

198     *Precinct No. 29.* Precinct twenty-nine shall include all the  
199 territory in ward fifteen.

200     The council shall by resolution entered of record fix the vot-  
201 ing places in each of said election precincts.

Sec. 4. The municipal authorities of the city of Charles-  
2 ton shall consist of a mayor, city treasurer, police judge and twen-  
3 ty councilmen, who shall be elected by the qualified voters of such  
4 city, and such officers shall, for the assessment year preceding their  
5 respective elections as hereinafter provided, have been assessed  
6 with and paid taxes in the city of Charleston upon a valuation of  
7 at least one hundred dollars worth of real estate or personal pro-  
8 perty therein, and any person elected to any one of such offices  
9 who has not been assessed with and paid taxes on such amount of  
10 property shall not qualify or enter upon the performance of the  
11 duties thereof, but such office shall thereby become vacant and  
12 shall be filled by a qualified person as provided herein for other  
13 vacancies.

Sec. 5. In addition to the municipal authorities mentioned  
2 in section four of this act, the city shall have a manager, city  
3 clerk, city auditor, collector, chief of police, city solicitor,  
4 chief of fire department, engineer, health commissioner,  
5 building inspector, lockup keeper, humane officer or officers, and  
6 such number of policemen as council by ordinance may direct.  
7 All the officers named in this and the preceding sections shall be  
8 paid proper salaries which shall be fixed by the council, except as  
9 herein otherwise provided, and such salaries shall be within the  
10 limits provided for by this act.

Sec. 9. For the election to be held hereunder on the third  
2 Monday in April, one thousand nine hundred and nineteen, there  
3 shall be made a registration of all the voters in all the election  
4 precincts in said city as fixed by this act. The city council shall  
5 hold a regular or special session on the first Monday in March,  
6 next, before said election and shall appoint for each voting pre-  
7 cinct as fixed by this act two competent persons as registrars, one

8 each from the two political parties which at the last preceding  
9 election cast the highest number of votes in the city of Charleston,  
10 but the executive committee of such political parties may present  
11 to the council a writing signed by the chairman of the committee  
12 of each party requesting the appointment of a qualified voter of  
13 his political party as registrar with his city address for each pre-  
14 cinct in the city and the council shall appoint the person in such  
15 writing as such registrar. No person shall be eligible to appoint-  
16 ment as registrar, or in any way act as such, who has been con-  
17 victed of a felony, or who holds any elective or appointive office or  
18 is an employee under the laws of the state of West Virginia or of  
19 the United States or who is not a qualified voter in the precinct for  
20 which he is appointed, or who can not read and write the English  
21 language. If such registrar shall fail or refuse to serve, the va-  
22 cancy shall be filled either by the city council, or the mayor of the  
23 city in vacation, in the manner hereinbefore provided for the ap-  
24 pointment of registrars, and the city clerk shall notify all such  
25 persons of their appointment as registrars. Said registrars shall  
26 before entering upon the discharge of their duties take an oath  
27 to support the constitution of the United States, the constitution  
28 of West Virginia, and to perform the duties of their office to the  
29 best of their ability and that they are legal members of the party  
30 for which they are, respectively, appointed. The said oath shall  
31 be filed in the office of the city clerk.

32 The city clerk shall cause to be prepared suitable books  
33 and blanks for the registration of the voters and such books shall  
34 be so arranged as required by law for the registration of voters  
35 for general elections held in the state of West Virginia and all  
36 the provisions, duties and obligations of chapter-----  
37 of the acts of the special session of the legislature held in the  
38 month of November, one thousand nine hundred and sixteen, shall  
39 apply to the registration of voters hereunder, except as herein  
40 otherwise set out, and the city council shall perform the duties  
41 required in said chapter of the county court, and the city clerk  
42 shall perform the duties required of the county clerk.

43 The said registrars shall meet on the Thursday following the  
44 first Monday in March, one thousand nine hundred and nineteen,  
45 and proceed to register the names of all qualified voters in their  
46 respective precincts in the manner required by said chapter----  
47 of the acts of said special session.

48 Said registrars shall complete said registration on or before

49 the fourth Monday in March, one thousand nine hundred and  
50 nineteen, and, for the purpose of amending, correcting and com-  
51 pleting said registration, shall sit together at some convenient  
52 place within the voting precinct for two days, commencing the  
53 first Monday in April, one thousand nine hundred and nineteen,  
54 from nine o'clock A. M. to one o'clock P. M. and from two o'clock  
55 P. M. to nine o'clock P. M., and shall give notice of the time and  
56 place of their sitting for such registration and correction by post-  
57 ing written or printed notices of the time and place of such sitting  
58 for five days prior thereto at not less than three of the most con-  
59 spicuous places in said voting precinct, one of which shall be at  
60 the place of voting in said precinct. At the time of said sitting  
61 the books of registration shall be open for public inspection, and  
62 the said registrars, in the manner hereinbefore provided shall reg-  
63 ister all qualified voters who have not theretofore been so register-  
64 ed by them and complete and finish their registration of the vot-  
65 ers within their said precinct and make out two alphabetical lists  
66 of the registered voters within said precinct entitled to vote at the  
67 ensuing election as registered by them and shall sign and return  
68 the same to the city clerk on or before the second Monday in April,  
69 one thousand nine hundred and nineteen. The registration books  
70 shall be sent to the polling place along with the ballots, and no  
71 person who is not duly registered thereon shall be allowed to vote  
72 at said election.

73 The commissioners of election shall return said books to the  
74 city clerk with the poll books, and the same shall be carefully pre-  
75 served by the city clerk in his office.

76 If the county court of Kanawha county shall adopt the lines  
77 of the precincts as in this act set out as voting places for state and  
78 county officers before another city election is held, then the regis-  
79 tration of voters made under the general law concerning registra-  
80 tion of voters shall be the registration of voters for all city gen-  
81 eral elections, with such additions as herein provided for, and it  
82 shall not be necessary to have a special registration of voters for  
83 any special election, but the preceding registration of voters for  
84 the regular municipal election, with such additions herein provid-  
85 ed for, shall be the proper registration for such special election.  
86 The voting precincts in the several wards for all city elections  
87 shall be the same as to boundaries as those fixed by the county  
88 court for all state and county elections so long as they are con-  
89 fined to the boundaries of the wards as they now are. The coun-



90 cil shall elect two persons, one being a member of each of the two  
91 leading political parties in said city, having all the qualifications  
92 of commissioners of election under chapter three of the code of  
93 West Virginia, as city registrars. They shall take the same oath  
94 as other officers of the city take and shall be paid such compensa-  
95 tion as the council may fix by ordinance, and their term of office  
96 shall be a period of two years. They shall sit in the office of the  
97 city clerk on five separate days, being the last four Saturdays and  
98 the last Monday preceding any regular or special election of said  
99 city for the purpose of registering voters who shall not have been  
100 already registered in the various precincts, and for issuing trans-  
101 fers to any voter who has moved from one precinct to another, and  
102 for striking off the name of any voter from the registration books  
103 when it shall be shown by the affidavits of two persons that he is  
104 no longer a voter in said city, and they shall strike off from such  
105 registration books the names of any person known by or proved to  
106 them to be dead. It shall be the duty of the city clerk to make  
107 or have made copies of the registration books on file in the office  
108 of the clerk of the county court of Kanawha county at least sixty  
109 days before any regular city election, and such copies, with such  
110 additions and changes as may be made by the city registrars, shall  
111 be used for all special elections that may be held between said reg-  
112 ular elections as well as the regular elections. Notice of the time  
113 and place of sittings of said city registrars shall be given by the  
114 publication thereof by the city clerk in two newspapers of oppos-  
115 ite politics printed and circulated in said city, once a week for six  
116 successive weeks before any election, if there is a sufficient space  
117 of time for such purpose, and, if not, then for such time as there  
118 may be before such election.

119 Before the registrars shall register the name of any person  
120 as a qualified voter they must be satisfied of his qualifications and  
121 shall have the right and power to require of such persons all the  
122 things that may be required of him by the registrars under the  
123 state law, and such registrars shall, as to the qualifications of per-  
124 sons to vote, be governed by the state laws on such subject in ex-  
125 istence at the time of such registration.

126 The county clerk of Kanawha county shall carefully preserve  
127 in his office the registration books of each general election for all  
128 the precincts of the city of Charleston and shall permit copies to  
129 be made of such registration books by any proper officer of the  
130 city of Charleston.

Sec. 10. Candidates to be voted for at any municipal election may be nominated by convention, or primary election, as may be decided by the executive committees of any of the parties recognized by law in said city, and candidates may be nominated by petition in the manner provided by chapter three of the code of West Virginia. Each of the political parties having the right to make a nomination under the election laws of West Virginia shall give notice of the manner of such nomination by publication thereof in some daily newspaper printed in the city of Charleston for ten days prior to the date of such convention or primary election.

Sec. 11. On the first Monday in April, one thousand nine hundred and nineteen, and on the second Monday preceding any city election held under the provisions of this act, the city council shall appoint two commissioners of election, one from each of the two political parties which did at the state and county election held in said city on the fifth day of November, one thousand nine hundred and eighteen, cast the highest number of votes, and if at any time during the said session of the city council the city executive committee of either political party from which said commissioners of election are to be selected or appointed shall present to said council a writing signed by them, or by the chairman of said committee in their behalf, requesting the appointment of a qualified voter of their political party with his city address and who is otherwise qualified to act as such commissioner of election under chapter three of the code of West Virginia, it shall be the duty of such council to appoint the person named in such writing as such commissioner. The county court of Kanawha county shall hold a regular or special session at the court house of said county on the first Monday in April, one thousand nine hundred and nineteen, and shall appoint one qualified voter as commissioner of election for each precinct in said city, and all city elections shall in all other respects be held in the way and manner prescribed in said chapter three of the code of West Virginia, except that no double election boards shall be appointed for any city election. If the county court of Kanawha county shall at any time arrange the voting precincts in the city of Charleston for state and county elections according to the lines of the city wards hereinbefore provided, then at all subsequent city elections such precincts with the same boundaries and same voting places as

30 provided for such state and county elections shall be the precincts  
31 for all city elections.

Sec. 13. The city of Charleston shall have a council, which  
2 shall be known and styled as the "Council of the City of Charles-  
3 ton" and shall be composed of twenty members, one from each of  
4 the fifteen wards of the city, and five councilmen to be voted for  
5 by all the voters of said city, all of whom shall be nominated, voted  
6 for and elected in the manner herein provided.

Sec. 14. Only citizens entitled to vote and residents and  
2 voters of their respective wards and having the property qualifica-  
3 tions hereinbefore provided shall be eligible to be elected to the  
4 office of councilmen from their respective wards and at large, and  
5 each councilman so elected from a ward shall continue to be a  
6 resident of the ward from which he is elected during his entire  
7 term of office.

8 At the election to be held on the third Monday in April, one  
9 thousand nine hundred and nineteen, there shall be elected one  
10 member of the council from each ward and five members of the  
11 council from the city at large. If any person elected to council  
12 fails to qualify within twenty days after he is declared elected,  
13 or resign as a member of the council, or cease to be a resident of  
14 the ward from which he is elected, then his office shall thereby be  
15 vacated and the council shall fill such vacancy by the election of  
16 some qualified person for such unexpired term. No person shall  
17 be declared elected by the council unless he receives the votes of at  
18 least eleven members thereof, and the minutes of such meeting  
19 shall show that fact.

Sec. 15. The mayor shall be the presiding officer of the coun-  
2 cil and be a member thereof, with the right to vote on all questions  
3 the same as any other member of said council, and the city clerk  
4 shall be *ex-officio* clerk of the council, and also perform the duties  
5 of clerk of the police court, and the mayor and city clerk shall  
6 each perform such other duties as the council may require of them.  
7 The council shall, at its first meeting after each election, select one  
8 of its body as president *pro tempore*, who shall, in the absence of  
9 the mayor, preside as chairman of the meeting of the council, and  
10 in the absence of both the mayor and president *pro tempore* at  
11 any meeting of the council, some member of the council shall be  
12 elected to preside over such meeting.

Sec. 35. There shall be a mayor, twenty members of coun-  
2 cil, a police judge and treasurer elected on the third Monday in

3 April, one thousand nine hundred and nineteen, for the term of  
4 four years, and their successors shall be elected every four years  
5 thereafter, and their terms of office shall begin on the first Mon-  
6 day of May after their election. The mayor's salary shall be not  
7 less than three thousand nor more than five thousand dollars per  
8 annum, and he shall not be eligible to hold said office for more  
9 than two terms in succession.

10 The mayor shall appoint the city solicitor, the chief of police  
11 and all policemen, humane officer or officers, building inspector,  
12 collector, city auditor, engineer, health commissioner, lockup  
13 keeper, and the chief of the fire department, and these appoint-  
14 ments shall not require any confirmation by the council, but shall  
15 be made at the discretion of the mayor, who shall, with like dis-  
16 cretion, have the full and complete power of the removal thereof.  
17 The mayor shall appoint the manager, by and with the advice and  
18 consent of the council, and the mayor shall, at the first meeting of  
19 the council on or after the first day of May, one thousand nine  
20 hundred and nineteen, send to the council the nomination of some  
21 fit and proper person for the office of manager, and the council  
22 shall, either at a regular or special meeting called for that purpose  
23 in the said month of May, pass upon such nomination and either  
24 confirm or reject the same, and if such nomination is rejected,  
25 then the mayor shall submit to the council a further nomination  
26 of some other person or persons until the nomination is confirmed  
27 by council, for said office as manager, but it shall be the duty of  
28 the council to pass upon all nominations without any unreason-  
29 able delay, and in any event within two weeks after the submis-  
30 sion of the same, and the failure of members of the council to  
31 pass thereon within such time shall be cause for the removal from  
32 office of such members of the council.

33 The council shall appoint a city clerk. The manager shall  
34 appoint or employ such persons as the ordinances of the city may  
35 require or the council may authorize by proper resolution. All  
36 such officers shall be appointed for the term of four years and un-  
37 til their successors are appointed and qualified, unless they are  
38 removed in the way and manner in this act provided.

39 It shall be the duty of the mayor to attend all meetings of the  
40 council and preside over that body.

41 It shall be the duty of the mayor to see that all of the laws  
42 and ordinances of the city are enforced and he shall have a general  
43 oversight over the peace, health and good order of the city.

44 The duties of the city solicitor shall be to attend the sessions  
45 of council, and to prosecute all suits in behalf of the city and de-  
46 fend all suits against the city, to advise the council and all of the  
47 departments of the city and in general to look after the interests of  
48 the city when it shall need legal services, for which he shall re-  
49 ceive a salary of twenty-five hundred dollars per annum. All  
50 fees of every kind collected by any officer or employee, including  
51 the police judge when acting as a justice shall be paid to the city  
52 treasurer.

Sec. 36. The manager shall be appointed in the way and  
2 manner hereinbefore provided and shall receive such salary as  
3 council may by ordinance prescribe, provided such amount shall  
4 not be less than three thousand nor more than five thousand dol-  
5 lars per annum, and he shall have the right to employ one clerk  
6 at such salary as council may fix, and such other help as he may  
7 require and as council may from time to time allow.

8 The manager shall devote his entire time and attention to  
9 the duties of his office, and shall have supervision and control of  
10 the executive work and management of the heads of all depart-  
11 ments under his control as directed by the mayor. He shall make  
12 all contracts for labor and supplies, and generally perform all of  
13 the administrative work of the city, and such other duties as coun-  
14 cil may require of him, and shall possess such other powers and  
15 perform such other duties as council shall prescribe.

Sec. 51. The council shall have authority to levy and col-  
2 lect an annual tax on real estate and personal property in said  
3 city, and to impose a license and assess a tax thereon on wheeled  
4 vehicles for public hire and for all dogs kept within said city, and  
5 to impose a tax upon all other subjects of taxation under the sev-  
6 eral laws of the state, which shall be uniform with respect to per-  
7 sons and property within the jurisdiction of said city, and shall  
8 only be levied on such property, real, personal and mixed, on  
9 which the state imposes a tax; *provided*, that no greater levy shall  
10 be laid by said council on the taxable property of said city than  
12 fifty cents upon each hundred dollars of the assessed valuation of  
13 the property of the municipality; and, *provided further*, that the  
14 council shall in making such levy, be subject to all the provis-  
15 ions of chapter nine of the acts of the legislature of one thousand  
16 nine hundred and eight and any and all amendments thereto, ex-  
17 cept as herein provided. There shall be a tax of two dollars an-  
18 nually assessed on each and every male inhabitant of said city

19 over the age of twenty-one years who is subject to a capitation  
20 tax under the laws of the state of West Virginia. The same shall  
21 be set out and included in the personal property book against every  
22 such inhabitant, and shall be collected under the authority of the  
23 city at the time of collecting other levies and taxes.

Sec. 75. The council may refund the lawful bonded indebted-  
2 edness of said city by issuing bonds of the city, payable within  
3 twenty years, bearing no greater rate of interest than four per-  
4 cent, but the indebtedness of said city shall not thereby be in-  
5 creased without the consent of the voters of said city being first  
6 had and obtained as provided by law.

7 Such bonds shall not be sold nor exchanged for the evidence  
8 of said indebtedness of said city for less than par, and  
9 there shall be provided a sinking fund that will discharge  
10 said bonds as they shall become due. Said bonds shall  
11 express on their face that they may be paid at any time after five  
12 years at the pleasure of the city. A record shall be kept of all pro-  
13 ceedings hereunder; *provided*, that nothing herein contained shall  
14 be construed to authorize an increase of the bonded indebtedness  
15 of said city beyond the amount authorized by law. Notwith-  
16 standing the limitations of this and other laws of the state of  
17 West Virginia relating to the issue of bonds and other indebted-  
18 ness, the city of Charleston is hereby authorized upon the affirm-  
19 ative vote of three-fifths of all the votes cast at an election held  
20 for said purpose to issue and sell bonds for the purpose of provid-  
21 ing the necessary funds for purchasing the ground and erect-  
22 ing a new city building and jail, or a separate jail, a new central  
23 fire station or fire stations, buying or building bridges, water-  
24 works, plants and other public utilities, and a city market or  
25 either or any of them.

26 The council of said city shall provide for the building of a city  
27 jail, and for that purpose may, if necessary, purchase the necessary  
28 land and shall lay such levy for the year one thousand nine hun-  
29 dred and nineteen in addition to all other levies authorized by  
30 law, as may be necessary for the purpose of constructing said city  
31 jail. The said city council shall also construct within the city of  
32 Charleston two public comfort stations, one of which shall be  
33 built in that part of Charleston lying east of Elk river, and one  
34 of which shall be built in that part of Charleston lying west of  
35 Elk river, which stations shall be constructed in a modern and  
36 sanitary manner, and council is authorized, if necessary, to

37 purchase such real estate as may be needed for such purposes,  
38 and the city council shall for the year one thousand nine hun-  
39 dred and twenty lay a sufficient levy, in addition to all other levies  
40 authorized by law, to build one of said comfort stations, and for  
41 the year one thousand nine hundred and twenty-one, in addition  
42 to all other levies authorized by law, lay a sufficient levy to build  
43 the other of said public comfort stations, and, in each case, do  
44 all things necessary and proper to carry out the general purpose  
45 hereby commanded; and in the event said council shall fail, neg-  
46 lect or refuse to lay said levies for the building of said city jail  
47 and public comfort stations as herein required, then any voter of  
48 said city may, by mandamus proceeding in any court having juris-  
49 diction, compel the council to perform such duty; *provided*, that  
50 the council may, if it so desire, submit to the vote of the people  
51 by proper ordinance, the question of issuing bonds for the foregoing  
52 purposes, and in the event such bonds shall be authorized, then  
53 such levies shall not be made, and, *provided*, that no such sale  
54 of bonds shall be made so as to cause the total indebtedness of  
55 said city, for all purposes, to exceed in the aggregate five per  
56 centum on the value of the taxable property therein, as ascer-  
57 tained by the last assessment for state and county taxes previous  
58 to the incurring of such indebtedness.

Sec. 88. In addition to the method provided for paving  
2 streets, by section sixty-one of the charter of the city of Charles-  
3 ton, the council may order any block, street, avenue or alley to  
4 be paved or otherwise permanently improved, and the council  
5 may order the mayor and city clerk to issue to the contractor do-  
6 ing the paving, or other permanent improvement, a certificate for  
7 each installment of the amount of the assessment to be paid by  
8 the owner of any lot or fractional part thereof fronting on such  
9 street, avenue or alley, and the amount specified in said assess-  
10 ment certificate shall be a lien as aforesaid in the hands of the  
11 holder thereof upon the lot or part of a lot fronting on such street,  
12 avenue or alley and such certificate shall draw interest from the  
13 date of said assessment and the payment may be enforced in the  
14 name of the holder of said such certificate by proper suit in equity  
15 in any court having proper jurisdiction to enforce such lien, and  
16 the council shall fix the amount of such assessment, advertise for  
17 bids, and do all other things in connection therewith as is pro-  
18 vided for paving or permanently improving any street or alley or  
19 any portion thereof in section sixty-one, and such certificates

20 shall be issued in the same number of installments and payable  
21 at the same time as other paving or permanent improvements are  
22 provided to be paid for and shall be a lien in the hands of the  
23 holder thereof upon the particular lot against which they are  
24 assessed in the same way and manner that assessments are liens  
25 under section sixty-one of said charter.

26 Such certificates as may be issued pursuant to the foregoing  
27 section shall contain a provision to the effect that in the event of  
28 default in the payment of any one of said certificates, when due,  
29 and said default shall continue for a period of sixty (60) days,  
30 then all unpaid certificates shall become due and payable and the  
31 holder of said certificates may proceed to collect all of such  
32 unpaid certificates in the manner hereinbefore provided.

33 *Provided*, that no street, avenue or alley shall be paved or  
34 otherwise permanently improved pursuant to this section except  
35 and unless two-thirds of all the members elected to council shall  
36 concur therein.

Sec. 93. In addition to the method of securing the laying  
2 of sidewalks set out in section forty-nine of this chapter, the  
3 council of said city may cause any sidewalk to be constructed,  
4 laid, relaid, or otherwise permanently improved in the city of  
5 Charleston in the following manner and upon the following  
6 terms: Notice shall first be given the abutting property owners  
7 by publication in two newspapers of opposite politics by giving  
8 location, estimated frontage and depth, but no error in said pub-  
9 lication shall in any way affect the validity of the certificates here-  
10 inafter provided for, or any of them. The contract for same  
11 shall, after due advertisement in which council shall reserve the  
12 right to reject any and all bids, be let to the lowest responsible  
13 bidder and upon completion and acceptance of the work, council  
14 shall order the mayor and city clerk to issue to the contractor  
15 doing the work a certificate for the amount of the assessment to be  
16 paid by the owner of any lot or fractional part thereof fronting  
17 on such sidewalk, and the amount specified in said assessment  
18 certificate shall be a lien in the hands of the holder thereof upon  
19 the lot or part of a lot fronting on such sidewalk and such cer-  
20 tificate shall draw interest from the date of said assessment, and  
21 the payment may be enforced in the name of the holder of such  
22 certificate by a proper suit in equity in any court having proper  
23 jurisdiction to enforce such liens, and council shall fix the  
24 amount of such assessments, and do all things in connection



25 therewith necessary to make them valid and do all other things  
26 in connection therewith as is provided for paving or improving  
27 streets and alleys and such certificates shall be issued one for each  
28 abutting lot or portion thereof payable six months from the date  
29 of the completion and acceptance of the work and shall be a lien  
30 in the hands of the holder thereof upon the particular lot against  
31 which they are assessed in the same way and manner that assess-  
32 ments for street paving are liens under the other provisions of  
33 the aforesaid act creating and amending the charter of the city  
34 of Charleston; *provided, however*, that council shall not order  
35 any but concrete sidewalks; and *provided further*, that council  
36 shall not advertise for bids for any one letting of less than five  
37 thousand square feet; and *further provided*, that council shall not  
38 receive any bids or let any sidewalk contract between the first  
39 day of October and the first day of March of any years. Nothing  
40 in this section shall be so construed as to prevent any abutting lot  
41 owner from having his own sidewalk put in if done before the  
42 advertising hereinbefore mentioned and provided same is done  
43 according to the lines, grades and specifications of the city en-  
44 gineer, for which no charge shall be made. The total cost of  
45 constructing, laying, relaying, or otherwise permanently improv-  
46 ing any sidewalk or walks shall be borne by the owners of the  
47 land abutting upon said sidewalk or sidewalks according to the  
48 following plan, that is to say, payment is to be made according  
49 to the proportion of square feet in front of any lot or portion  
50 thereof bears to the whole letting. The contract for sidewalks  
51 referred to in this section does not necessarily have to be one con-  
52 tinuous sidewalk but the five thousand square feet required for a  
53 letting as aforesaid may be made up of or composed of any  
54 number of sidewalks in any parts of the city.

Sec. 93-a. The county assessor shall furnish transcript of  
2 real and personal property on or about the tenth day of September  
3 of each year and his fee for same shall be not less than four  
4 hundred nor more than seven hundred dollars for such work.

Sec. 94. The police judge, mayor and city clerk shall each  
2 have authority to issue process for all offenses committed within  
3 the police jurisdiction of the city of Charleston for all violations  
4 of any city ordinances. Any vacancy in the office of police judge  
5 shall be filled by appointment by the mayor until the next elec-  
6 tion.

Sec. 95. No ordinance passed by the city council shall take

2 effect until five days after its final passage and one publication  
3 of the caption or title thereof only shall be made during said  
4 five days in some daily newspaper printed and circulated in  
5 said city, except an ordinance necessary for the immediate pre-  
6 servation of the public health or public safety. Such caption or  
7 title shall distinctly state the full purport of the ordinance so  
8 passed and printed.

Sec. 96. The health commissioner shall be a physician of  
2 good standing in his profession and shall devote his time to  
3 city work alone. It shall be his duty to administer to all charity  
4 cases that he may, in his discretion, deem deserving. He shall,  
5 in conjunction with the city manager, have charge of the gen-  
6 eral health and sanitation of the city and it shall be his duty to  
7 carefully investigate all complaints and make a careful detailed  
8 report of all his official acts as health commissioner to the city  
9 manager and council at least once every month. He shall be  
10 appointed in the way and manner provided in the charter of the  
11 city of Charleston and shall receive such salary as council may by  
12 ordinance prescribe. Nothing herein, however, shall be construed  
13 as in any way affecting the police officers of the city relative to  
14 their powers and duties in regard to city sanitation contained  
15 and set forth elsewhere in said charter.

Sec. 97. It shall be the duty of the mayor to appoint a repu-  
2 table woman who shall be known as police matron, and such po-  
3 lice matron shall have all the qualifications and be subject to all  
4 the provisions of chapter eighteen of the acts of the legislature  
5 of one thousand nine hundred and eleven. The council of the  
6 city of Charleston shall provide a reasonable salary not to ex-  
7 ceed twelve hundred dollars therefor and do all of the things  
8 required by the council under the provisions of said chapter  
9 eighteen of the acts of the legislature of one thousand nine hun-  
10 dred and eleven and any amendments thereto.

Sec. 98. The city council shall cause any contract for the  
2 codifying and indexing of all the ordinances of the city to be  
3 fully completed, and such ordinances shall include all in force  
4 and effect up to the last day possible. Before such work is ac-  
5 cepted by the council, it shall be completed in every respect and  
6 the council shall then cause it to be properly printed and securely  
7 bound in a permanent book. The council may by ordinance  
8 adopt the code to be prepared as a whole and when said ordi-  
9 nance adopting said code shall have been passed by the council, the

10 said code shall be and become the law and ordinances of said  
11 city up to such time according to the tenor and effect thereof.  
12 and when printed in a book, the same shall be received as evi-  
13 dence as the ordinances of said city, unless errors or omissions  
14 be affirmatively shown therein, and no other publication thereof  
15 shall be made or required under the charter, and the council  
16 shall cause all the ordinances of said city, either by printing a  
17 supplement thereof, to be brought up to date within a reasonable  
18 time after the printing of such ordinances, and in any event such  
19 supplement shall be printed, or, if necessary, a new copy of the  
20 ordinances shall be printed within every four years, and the  
21 council shall cause a sufficient number of said books of the or-  
22 dinances to be printed and to sell such number thereof as it may  
23 do so at such price as may be reasonable, and the number of  
24 books printed shall be fixed by the council.

Sec. 99. It shall be the duty of the city of Charleston to  
2 provide suitable and proper places for the burial of the dead,  
3 which places may be in or out of the corporate limits of the said  
4 city. The city shall cause such places to be laid off into cemetery  
5 lots in a reasonable and proper way and shall sell said lots for a  
6 reasonable price, but it may take into consideration the location  
7 of each of such lots in fixing the prices thereof. The city council  
8 shall have all the powers and rights of condemnation of any real  
9 estate that it may wish for such purpose in the manner provided  
10 by law, and it may require by means of condemnation any real  
11 estate which has already been laid out as a cemetery by any  
12 person, association or corporation.

13 No burials of the bodies of deceased persons shall hereafter  
14 be permitted within the incorporated limits of the city of Charles-  
15 ton or within the space of one mile of such incorporated limits  
16 without the permission of said city shall be first had and ob-  
17 tained, and the city of Charleston, through its proper authorities,  
18 shall have power to pass all proper ordinances providing suitable  
19 penalties to carry out the powers here given said city.

20 No moneys received from the sale of lots in any cemetery so  
21 owned, or hereafter owned, by said city shall be used for any  
22 other purpose than the proper care and preparation of the ground,  
23 upkeep and expenses of said cemetery, the roads and ways to and  
24 through the same and for the purchase of additional property  
25 for cemetery purposes. *Provided, however,* that nothing herein  
26 contained shall in anywise effect any person, firm or corporation

27 now lawfully engaged in the sale of cemetery lots, unless such  
 28 property be acquired by the city through purchase or con-  
 29 demnation.

Sec. 100. The building inspector shall be a competent  
 2 person for the duties of his office and shall devote all his time  
 3 to city work. He shall not be engaged or interested in the build-  
 4 ing business in any way or manner. The council shall by ordi-  
 5 nance fix a proper salary for him. He shall see that the ordi-  
 6 nances of the city and laws of the state concerning buildings are  
 7 enforced and perform such other duties as the manager or council  
 8 may direct.

Sec. 101. The council shall have power to buy, sell or ex-  
 2 change any real estate found necessary or convenient, in the  
 3 opening, construction, straightening, widening, or otherwise alter-  
 4 ing of any street, alley or public way within the city, and by  
 5 resolution and proper deed to convey to any person, firm or  
 6 corporation any land used, or heretofore or hereafter used, for  
 7 street or other public purpose, when in the judgment of the  
 8 council such land shall no longer be needed for such public use.

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## CHAPTER 10.

# House Bill No. 121

AN ACT to amend and re-enact sections one, ten, twenty-six, forty-  
 seven, fifty-one, fifty-two and sixty-one of chapter one hun-  
 dred and thirteen of the acts of one thousand nine hundred  
 and seventeen, creating the city of Morgantown.

*Be it enacted by the Legislature of West Virginia:*

That sections one, ten, twenty-six, forty-seven, fifty-one, fifty-two  
 and sixty-one, of chapter one hundred and thirteen of the acts of one  
 thousand nine hundred and seventeen, entitled an act creating the city  
 of Morgantown, in the county of Monongalia, be amended and re-  
 enacted so as to read as follows:

### *Corporate Powers.*

Section 1. That the inhabitants of that portion of Mo-  
 2 nongalia county, in the state of West Virginia, included within

3 the boundaries described in section two of this act, now a mu-  
5 town, shall continue to be a body politic and corporate under  
6 the same name, and as such shall have perpetual suc-  
6-a cession; may use a corporate seal; may sue and be  
7 sued; plead and be impleaded; contract and be con-  
8 tracted with; acquire property for municipal purposes in fee  
9 simple or lesser interest or estate by purchase, gift, devise, ap-  
4 nicipal corporation existing and known as the city of Morgan-  
10 propriation, lease or lease with the privilege to purchase, either  
11 within or without the city limits, subject to the rights of other  
12 affected municipal corporations; may sell, lease, hold, manage  
13 and control such property, and make any and all rules and reg-  
14 ulations, by ordinance or resolution, which may be required to  
15 carry out fully all provisions of any conveyance, deed or will, in  
16 relation to any gift or bequest, or the provisions of any lease by  
17 which it may acquire property; may grant public franchises to be  
18 exercised within the city; may acquire, construct, own, lease and  
19 operate light, heat, power, water, garbage and sewage disposal  
20 plants and regulate all other public utilities; may assess, levy,  
21 and collect taxes for general and special purposes on all the  
22 subjects or objects within its boundaries which the city may  
23 lawfully tax; may borrow money for refunding bonded and  
24 current indebtedness or for permanent improvements and pub-  
25 lic works, on the faith and credit of the city by the issue and  
26 sale of bonds or notes of the city, and in the issuance and sale  
27 of said bonds the said city shall be governed by the restrictions  
28 and limitations of the constitution and laws of the state relat-  
29 ing to the issuance and sale of bonds, so far as said state laws are  
30 not in conflict with the provisions of this act; may perma-  
31 nently improve, repair and reconstruct any street, alley or road-  
32 way within the city limits and assess the cost thereof, as here-  
33 inafter provided, against the owners of the abutting or bene-  
34 fited properties in accordance with an ordinance that shall per-  
35 mit the payment of said assessments in cash or in annual install-  
36 ments, and may in anticipation of the levying of said assess-  
37 ments, issue and sell its bonds, as hereinafter provided; may  
37-a appropriate the money of the city for all lawful purposes; may  
38 create, provide for, construct, regulate and maintain all things  
39 of the nature of public works and improvements; may direct

40 the laying out of lots and the opening of streets and roadways;  
41 may license and regulate persons, corporations and associations  
42 engaged in any business, occupation, profession or trade; may  
43 define, prohibit, abate, suppress and prevent all things detri-  
44 mental to the health, morals, comfort, safety, convenience and  
45 welfare of the inhabitants of the city, and all nuisances and  
46 causes thereof; may limit the height and regulate the con-  
47 struction and materials used in all buildings and structures of  
48 every kind, and the maintenance, occupancy and use thereof;  
49 may regulate and control the use, for whatever purpose, of the  
50 streets and other public places; may create, establish, organize  
51 and abolish offices not specifically provided for by this act, and  
52 fix the salaries and compensations of officers and employees when  
53 not fixed herein; may make and enforce local police, sanitary and  
54 other regulations, and prescribe, impose and enforce reasona-  
55 ble fines and penalties, including imprisonment, and with the  
56 consent of the county court of Monongalia county, shall have  
57 the right to use the jail of said county when necessary; and may  
58 pass such ordinances and resolutions as may be expedient or  
59 necessary for maintaining and promoting the peace, good gov-  
60 ernment and welfare of the city, and for the performance of  
61 the functions thereof. The city of Morgantown, as constituted by  
62 this act, shall retain, keep and succeed to all rights, privileges,  
63 property, interest claims and demands heretofore acquired by,  
64 vested in or transferred to the said city as heretofore consti-  
65 tuted and shall have all powers that now are or hereafter may  
66 be granted to municipalities by the constitution or laws of West  
67 Virginia, or that are herein by implication conferred, or are  
68 necessary to or consistent with the purposes of this act; and all  
69 such powers, whether expressed or implied, shall be exercised  
70 and enforced in the manner prescribed by this act, or when not  
71 prescribed herein, in such manner as shall be provided by ordi-  
72 nances or resolutions of the governing body herein provided for.

Sec. 10. The first election under this act shall be held on  
2 the fourth Tuesday of April, one thousand nine hundred and  
3 nineteen, or at such time as may be fixed by the common coun-  
4 cil of the city, not less than thirty nor more than ninety days  
5 after the adoption of this act as provided in section sixty-one  
6 hereof, at the regular voting places within the city, under the su-  
7 pervision of the council and officials of the city as at present con-  
7-a stituted, and be conducted, certified, returned and finally de-

8 terminated, in accordance with the provisions of this act and the  
9 laws and ordinances, or such parts thereof, as are now in effect  
10 and not inconsistent with the provisions of this act.

Sec. 26. The judicial power of the city shall be vested in  
2 a municipal court, which shall have the same jurisdiction, in  
3 cases arising within the city, as is vested in justices of the peace  
4 by the laws of this state, and as is vested in municipal courts  
5 by chapter one hundred and fourteen-a of the code of this state,  
6 and which shall have exclusive jurisdiction of the following  
7 offenses committed within the city (except when prosecuted by in-  
8 dictment or information):

9 1. All criminal proceedings for the violation of any city  
10 ordinance.

11 2. All actions for the collection of licenses, assessments or  
12 taxes imposed under this act or any ordinance of the city.

13 3. Petit larceny.

14 4. Assault and battery.

15 5. Breaches of the peace, rioting, committing willful in-  
16 jury to property, and all misdemeanors punishable by fine or im-  
17 prisonment in the county jail, or both; proceedings respecting  
18 vagrants, lewd or disorderly persons; and of all offenses not  
19 properly falling under the jurisdiction of other courts.

20 6. All cases for desertion or non-support and of dependent,  
21 neglected or delinquent children, where the parties or any of  
22 them reside or the cases arise within the city, subject to appeal  
23 to the circuit court of Monongalia county as provided in chapters  
24 fifty-one and sixty-three of the acts of the legislature of one  
25 thousand nine hundred and seventeen.

26 The municipal court shall be presided over by a munici-  
27 pal judge, who shall be a citizen of the city of Morgantown.  
28 Until a municipal judge shall have been appointed, the mayor  
29 shall act in that capacity. The municipal judge shall within  
30 the city have, possess and exercise all the powers and perform  
31 all the duties vested by law in a justice of the peace, except that  
32 he shall have no jurisdiction in civil cases or causes of action  
33 arising outside of the corporate limits of the city. He  
34 shall have the same power to issue attachments in civil suits as a  
35 justice of the county has, though the cause of action arose out-  
36 side of the city, but if the cause of action arose outside of the  
37 city, said attachment shall be returnable to and be heard before  
38 some justice of the county. Any warrant or other process is-

39 sued by him may be executed at any place in the county. He  
40 shall have the power to issue executions for all fines, penalties  
41 and costs imposed by him, or he may require the immediate pay-  
42 ment thereof, and in default of such payment he may commit the  
43 party in default to the jail of the county or municipality until  
44 the fine or penalty and costs shall be paid, but the term of im-  
45 prisonment in such cases shall not exceed thirty days. The ex-  
46 pense of maintaining any person committed to the county jail by  
47 him, shall be borne by the city, except it be to answer an in-  
48 dictment or be under the provisions of section two hundred and  
49 twenty-seven and two hundred and twenty-eight of chapter fifty  
50 of the code of this state.

51 He shall not receive any money belonging to the state or  
52 individuals unless he give such bond and security as is re-  
53 quired of a justice of the peace, and all provisions of the said  
54 chapter fifty of the said code relating to moneys received by  
55 justices shall apply in like manner to the municipal judge.

56 He shall have authority to sentence an offender to labor,  
57 upon the streets or at other public work of the city, for a pe-  
58 riod not exceeding thirty days, and the compensation for said  
59 labor shall be paid to said offender's dependents, if any, in con-  
60 formity with such regulations as the board of commissioners  
61 may by ordinance provide.

62 Appeals shall lie from the judgment of the municipal court  
63 to the circuit court of Monongalia county, in accordance with  
64 law.

65 The municipal judge may, in lieu of a salary fixed by ordi-  
66 nance, receive as compensation, such fees as are provided by law  
67 for justices of the peace, but the city shall assume no liability  
68 for the collection of said fees.

69 Sec. 47. Upon receipt of said budget the board of com-  
70 missioners shall cause a copy of same to be placed on file in the  
71 office of the city clerk for public inspection and shall give pub-  
72 lic notice of a meeting to be held not less than ten days there-  
73 after, at which meeting objections to the budget may be stated.  
74 The board of commissioners shall then make such changes in  
75 the said budget as they may deem advisable, but shall not in-  
76 crease the amount thereof, and shall order a levy of so much on  
77 the real estate and personal property in the city as in their opin-  
78 ion shall be necessary to pay the same; *provided*, that such an-  
79 nual budget shall be made and such levy laid in the manner  
80 prescribed by general law of this state relating thereto; and pro-



81 vided that the levy for general purposes shall not exceed fifty  
82 cents on each one hundred dollars of the valuation of the taxa-  
83 ble property in the city for the year in which said levy is  
84 laid, unless a higher rate shall be hereafter authorized by gen-  
85 eral law of the state; and, *provided, further*, that they may, for  
86 the purpose of paying the present current indebtedness of the  
87 city, lay an additional special levy not to exceed ten cents on each  
88 one hundred dollars of such valuation, but the same shall not be  
89 continued after the taxes accruing from such special levy are suf-  
90 ficient to pay the present current indebtedness of the city.

91 Property shall be valued for the purpose of taxation in the  
92 manner required by the laws of the state. The capitation tax  
93 imposed under Sec. 49 hereof shall be collected by the assessor  
94 and his assistants at the time of the collection of other capita-  
95 tion taxes as required by section fifty-three of chapter twenty-  
96 nine of the code of this state, for which the assessor shall be  
97 allowed a compensation of five per cent. upon settlement for all  
98 capitation taxes with which he is charged in the city.

Sec. 51. The board of commissioners may order the owner  
2 of any real property abutting on any street, roadway or alley  
3 to grade the sidewalk adjacent to such property and to con-  
4 struct or cause to be constructed a curb, sidewalk or gutter along  
5 said property in accordance with such regulations as they may  
6 by ordinance provide, and upon failure of said owner so to do,  
7 the board of commissioners may cause the same to be done and  
8 shall assess the cost thereof, with interest, upon the said property  
9 and against the owner thereof.

Sec. 52. The board of commissioners shall have power, with-  
2 out petition of the owners, to provide for the construction, re-  
3 construction, repair and maintenance, of all local improvements  
4 including the grading, paving, sewerage and otherwise perma-  
5 nently improving of streets and alleys of the city, and to provide  
6 for the assessment of one-third of the cost thereof, including all  
7 incidental expenses and the cost of intersections of streets, with  
8 interest payable annually, against the abutting or other specially  
9 benefited properties, according to their frontages, on each side of  
10 such streets or alleys, and against the owners thereof, upon the  
11 following conditions:

12 (a) *Plan and resolution.* The board of commissioners,  
13 when deemed expedient by it, shall cause plans, specifications,  
14 profiles and estimates of the proposed improvements by grading,

15 paving, curbing, sewerage or otherwise locally improving any  
16 streets or alleys, to be made and filed in the city clerk's office,  
17 and shall by ordinance and resolution prescribe generally the lo-  
18 cation and character of the proposed improvement and refer to  
19 such plans, specifications, profiles and estimates.

20 (b) *Notice and hearing.* The board of commissioners  
21 shall then cause notice thereof to be published once in two  
22 newspapers published in said city, fixing the date for a hearing  
23 thereon not less than one week after the adoption of such reso-  
24 lution. At the date stated in such resolution and notice, or at any  
25 adjourned meeting, the board of commissioners shall hear ob-  
26 jections to the proposed improvement and may correct, amend  
27 or modify such plans, specifications, profiles and estimates, not  
28 extending such improvement to any other street or part of street,  
29 and may pass or adopt a resolution or ordinance providing for such  
29-a improvement by direct employment of labor or by contract with  
30 the lowest responsible bidder, and for the assessment of one-third of  
31 the cost thereof against the abutting or specially benefited proper-  
31-a ties on each side of such street or alley.

32 (c) *Assessment, docketing and payment.* The board of  
33 commissioners shall, by resolution or ordinance, levy the as-  
34 sessment of one-third of the approved estimate of the cost of  
35 such improvement, including incidental expenses and intersec-  
36 tions, upon the abutting or other specially benefited properties  
37 and against the owners thereof, in proportion to the frontages of  
38 such properties, designating the same by numbers, names of  
39 owners or other convenient description; and shall also assess  
40 against any street car or other railway company the cost of the  
41 improvement of the space between the rails of its track or tracks  
42 and two feet additional outside each rail (unless otherwise pro-  
43 vided in the franchise therefor); which assessments shall be liens  
44 upon the respective properties, and upon the tracks and fran-  
45 chises of such company for the distance of the improvement  
46 thereon, and said liens shall have priority over all other liens  
47 except taxes due the state. The said assessment shall be paya-  
48 ble fifteen days after the levying thereof, unless the owners of  
49 such properties elect to pay the same in ten annual installments as  
50 hereinafter provided; and, within thirty days after the levying  
51 thereof, the city clerk shall cause a memorandum of all unpaid  
52 assessments to be made, showing the names of the owners of such  
53 properties, descriptions of the properties, and the amounts of

54 the assessments, respectively, and shall file the same in the office  
55 of the clerk of the county court of Monongalia county for rec-  
56 ord in the deed of trust books therein; such assessments, after  
57 said period of thirty days, and before recordation of such mem-  
58 orandum, shall not be liens as against purchasers of such property  
59 for value and without notice. Upon payment thereof, releases  
60 shall be executed and recorded in the manner provided by law.

61 (d) *Collateral bonds.* The board of commissioners shall,  
62 at the option of the owner or owners of such properties, permit  
63 payment of one-tenth of the amount assessed against them,  
64 respectively, within said fifteen days, and issue and sell its notes  
65 or bonds, without vote of the electors of the city, in anticipa-  
66 tion of the payment of such special assessments in annual install-  
67 ments as follows: One-tenth of such amount with interest on said  
68 one-tenth, at six per cent per annum, payable annually, in one year  
69 from the date of levying of such assessment, and a like one-tenth,  
70 with interest as aforesaid, at the expiration of each succeeding year  
71 until the whole amount shall have been paid.

72 (e) *Method of improvement.* The board of commis-  
73 sioners shall, after levying and collecting assessments and issu-  
74 ing its notes and bonds as aforesaid, proceed with such local  
75 improvements according to the said approved plans, specifica-  
76 tions and profiles, and shall pay two-thirds of the cost thereof  
77 out of the special assessment fund accruing from such payment  
78 and the sale of its notes or bonds and shall pay the remaining  
79 one-third out of any public funds not otherwise appropriated.  
79-a *Provided*, that the assessment against any such street car or  
80 other railway company shall be deducted from the one-third of  
81 the cost to be paid by the city.

82 (f) *Rebates or further assessments.* Upon the comple-  
83 tion of any improvement, any excess above the actual cost of the  
84 improvement shall be refunded to the owners of properties on  
85 the basis on which assessed, and in the event of a deficit in the  
86 assessment fund, the commissioners may by ordinance lay  
87 a supplementary assessment on the basis of the actual  
88 cost, which shall be made and collected as provided in the case  
89 of the original assessments for the improvement.

90 (g) *Gas and water lines.* The board of commissioners  
91 before making any such local improvements, shall compel any  
92 person, firm or corporation having gas, water, telephone, street  
93 car or other public utility equipment on, in or under such street

94 or alley under franchise therefor, to be removed, renewed, low-  
95 ered or raised, and the gas or water lines or connections to be  
96 extended from the mains to the abutting properties, as directed  
97 within ten days after notice so to do; and shall also cause the  
98 owners of properties abutting on said street or alley to install  
99 sewer connections at their expense, within ten days after notice  
100 so to do; and if the same be not done within said time, the work  
101 may be done by the city, and the cost thereof, with a penalty of  
102 ten per cent. of the cost, assessed against the owners of such  
103 franchises and against the said properties respectively, for which  
104 such connections are made, which assessments shall be liens and  
105 may be collected as other taxes.

106 (h) *Damages to improvements.* Whenever any street or  
107 alley of the city, or any part thereof, shall have been graded,  
108 sewered, or otherwise permanently improved by order of the board  
109 of commissioners, pursuant to the authority conferred on them  
110 by this section, by providing for an assessment of a part of the  
111 cost thereof, as provided by this section, against abutting prop-  
112 erty and the owners thereof, it shall not be within the power of  
113 the said board of commissioners to thus charge the said property  
114 or the owners thereof, with any part of the cost of regrading  
115 re-paving, re-sewering or against permanently improving such  
116 street or alley until after fifteen years from the completion of  
117 such grading, paving, sewerage or otherwise permanently im-  
118 proving thereof. The board of commissioners shall, by ordi-  
119 nance provide for the protection, preservation and use of any  
120 such local improvements and shall prescribe fines and penal-  
121 ties for damages or injuries thereto, for which the person or  
122 company causing such injury shall be liable; and no owner or  
123 owners of abutting properties shall be compelled to pay subse-  
124 quent special assessments for the reconstruction, repair and  
125 maintenance of any curb, pavement, sewer or other local im-  
126 provement, so injured or damaged by any other person or cor-  
127 poration in violation of such ordinance.

128 (i) The board of commissioners shall have power to pass  
129 and adopt ordinances not inconsistent with the constitution and  
130 laws of this state, for the purpose of carrying out the provis-  
131 ions of this section.

*Ratification by Voters.*

Sec. 61. The said act of the legislature of one thousand

2 nine hundred and seventeen, as hereby amended, shall not be  
3 effective until the same shall first be submitted to the voters of  
4 said city, at a special election called for that purpose, and adopted  
5 by a majority of the votes cast at said election. Said special  
6 election shall be held on the fourth Tuesday in March, one  
7 thousand nine hundred and nineteen, after publication of the  
8 act one time not less than ten days immediately preceding said  
9 special election, in two daily papers published in said city.  
10 Said special election shall be conducted in the regular manner  
11 of holding municipal elections in said city. If this act is  
12 adopted at said election it shall become effective at the time  
13 and in the manner provided in section sixty hereof.

14 The ballot to be voted at said election shall be printed  
15 in the following form:

16 CITY OF MORGANTOWN.

17 CHARTER ELECTION.

18 Indicate how you desire to vote by a cross in the square.

19 [ ] "For adoption of new charter."

20 [ ] "Against adoption of new charter."

21 *Provided, however,* that if this act shall fail of adoption  
22 at such election, the same may be voted upon at a subsequent  
23 election, called by the council of said city, and held in the  
24 same manner; but no such subsequent election shall be held until  
25 a period of six months shall have elapsed after any former election  
26 held for that purpose; and *provided, further,* that if the council  
27 of said city shall fail or refuse to call a subsequent election  
28 for that purpose, then upon petition signed by the qualified voters  
29 of said city, equal in number to at least thirty per centum of the  
30 entire vote cast for the candidate for mayor, who received the  
31 highest number of votes at the last preceding municipal election,  
32 said council shall, by a proper order, call a special election  
33 for that purpose. And if this act shall fail of adoption, at  
34 the first election held for that purpose as herein provided, then  
35 it shall take effect from the date of its adoption, at such sub-  
36 sequent election, for the purpose of nominating and electing  
37 officers and all purposes in connection therewith, and for all other  
38 purposes shall take effect on the first day of July following its  
39 ratification and adoption in the manner herein provided.

# House Bill No. 91

AN ACT to amend and re-enact sections fifty-two, seventy-six, eighty-three and eighty-four of the part entitled, "Greater Wheeling Charter," of an act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled: "An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: "An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled: "An act to incorporate the city of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling;" chapter eleven of the acts of said legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the city of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen.

*Be it enacted by the Legislature of West Virginia:*

That sections fifty-two, seventy-six, eighty-three and eighty-four of chapter twenty-one of the acts of one thousand nine hundred and fifteen (greater Wheeling charter), and approved by a majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May in the year one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 52. The council may cause any street or alley to  
2 be paved, between the sidewalks, with cobble, asphalt, stone,  
3 brick, or other suitable materials, under such regulations as  
4 shall be fixed by ordinance, upon the lowest and best terms to be

5 obtained by advertisement for bids or proposals therefor by the  
6 council as herein provided; or the council may have such work  
7 done without the intervention of contractors or middlemen; and  
8 two-thirds of the cost of such paving shall be assessed against  
9 the owners of the lots or fractional parts of lots abutting or  
10 bounding on that part of the street or alley so paved in propor-  
11 tion to the distance of the frontage owned by each, except in  
12 the case of a street whereon a railway of any kind is being oper-  
13 ated, the railway company, or owner of such railway, shall, upon  
14 thirty days' notice in writing from the city, pave with like ma-  
15 terial and in a like manner as the city paves the residue of the  
16 streets, or pay for the new paving if done by the city, between  
17 the rails and a foot outside of the rails, and the residue of the  
18 space between the tracks where more than one are on the street,  
19 and the remainder of the cost to be borne in the proportion of  
20 one-third by the city and the remaining two-thirds by the owners  
21 of the abutting property on both sides of said street or alley on  
22 which said railway is being operated, the intersections of two  
23 streets, or of a street and alley, or of two alleys, to be paved at  
24 the expense of the city. But where the intersection is crossed  
25 by a railway track or tracks of any kind, the railway company or  
26 owner of such tracks shall pay for the paving of so much of such  
27 intersection as is between its rails and one foot outside of such  
28 rails, as well as the residue of the space between double tracks.

29 In case two street railway tracks belonging to different  
30 owners are on a street, the cost of paving between such tracks  
31 on such street shall be paid one-half by the owner or owners of  
32 each of such tracks.

33. The sum or sums of money thus assessed for paving shall be  
34 a lien on the lots or fractional parts of lots upon which they are  
35 assessed, which lien may be enforced by a suit in equity in the  
36 name of the city, in the circuit court of Ohio county, West Vir-  
37 ginia, or the same, or any installment thereof, may be collected  
38 by a suit at law before such court, or before any justice of the  
39 peace of said county, if the amount involved does not exceed  
40 three hundred dollars, exclusive of interest and costs.

41 Immediately upon the completion and acceptance of any  
42 such paving, the council shall direct the city clerk to cause to  
43 be published a notice, which shall name and describe the loca-  
44 tion of the portion of the street or alley upon which said paving  
45 shall have been constructed; give the name or names of the

46 owners of each lot abutting or bounding upon such portion of  
47 the street or alley, if known, and if the name or names of the  
48 owner of any lot or fractional part of a lot are unknown, such  
49 lot shall be described with reasonable certainty in order that the  
50 same may be identified; and the number of feet that each lot or  
51 fractional part of a lot abuts upon such paved portion, as well  
52 as the amount assessed against each lot or fractional part of a  
53 lot, for the cost of the paving. Said notice shall cite all owners  
54 of lots or fractional parts of lots, abutting upon the portion of  
55 the street or alley which has been paved, to appear before the  
56 council at a regular meeting thereof, within thirty days from  
57 the first publication of the notice, and show cause, if they can,  
58 why the assessment aforesaid should not become final, which  
59 notice shall be published once a week for two successive weeks  
60 in one or more newspapers of general circulation published in  
61 said city. The council shall, upon the request of any one or  
62 more of the owners of said lots or fractional parts of lots, ap-  
63 point a day to hear the grievances of said owner or owners, and  
64 may alter or amend any assessment made against any one or  
65 more of said owners for good cause shown. The city clerk shall  
66 give notice to all persons claiming to be injured by said assess-  
67 ment, of the time and place of holding the meeting of the  
• 68 council to hear such grievances, which meeting shall be held  
69 within ten days after the clerk shall have given the last men-  
70 tioned notice. The council may adjourn the hearing from time  
71 to time. In case any owner or owners of abutting property fail  
72 within such thirty days to complain to the council of any griev-  
73 ance or injury they may have suffered, by reason of the assess-  
74 ment aforesaid, or to appear before the council for the purpose  
75 of having the same corrected on the day appointed by the council  
76 for the hearing of such grievances as have been complained of,  
77 the assessment as laid shall be final. The findings of said council  
78 shall be subject to correction by said circuit court, upon appeal,  
79 which must be taken and perfected within thirty days from the  
80 finding and be heard and determined by such court without de-  
81 lay, having precedence of other cases on the court's docket. The  
82 rights conferred by this section are cumulative and shall not be  
83 exhausted as to any particular street or alley by reason of having  
84 been once exercised.

85 One-tenth of the amount assessed against the property  
86 owner of the cost of the paving shall be paid within one year



87 after the completion and acceptance of the work, and the remain-  
88 ing nine-tenths thereof shall be paid in nine equal annual install-  
89 ments, with interest, payable annually, payable at such times as  
90 the city shall collect taxes for other purposes.

91 Where the city does the paving which is required to be  
92 done by the traction companies under their franchise rights  
93 of this charter upon completion and acceptance of the work by  
94 the city, the amount of the cost thereof shall be due and payable,  
95 and the city may recover the same by an action at law.

96 But lien upon any real estate created by virtue of this sec-  
97 tion shall be void as to any purchasers of any such real estate  
98 unless the city shall, within sixty days after the completion and  
99 acceptance of the paving by the city, cause to be recorded in the  
100 office of the clerk of the county court an abstract of such assess-  
101 ment, giving the location of the real estate affected, the name of  
102 the owner and the date and amount of the assessment, which  
103 recordation shall be in a well-bound book to be furnished by  
104 the city and be preserved in said clerk's office.

105 And it is hereby made the duty of said county clerk to  
106 record said abstracts; for the recordation of each of which said  
107 clerk shall receive a fee of twenty-five cents to be paid by the  
108 city.

109 All moneys appropriated for the paving, repaving or re-  
110 pairing of streets or alleys shall be used for that purpose only,  
111 and the revenue received by the city from assessments against  
112 any and all property or property owners shall be placed in a  
113 "street paving" fund and shall be considered and treated the  
114 same as moneys appropriated for that purpose.

Sec. 76. The city shall not levy any aggregate for all city  
2 purposes, including interest and sinking fund on its bonded in-  
3 debtedness, more than seventy cents on each one hundred dollars  
4 of assessed valuation of the property of the municipality accord-  
5 ing to the last assessment thereof for state and county purposes;  
6 the council shall annually cause to be levied and raised by a gen-  
7 eral tax upon all taxable property in the city:

8 First: An amount sufficient to pay the interest and any in-  
9 stallment of principal falling due within the year and the sinking  
10 fund provided to pay said bonds upon all bonds of the public debt  
11 of the city, which shall be kept in a separate fund, to be called  
12 the public debt fund.

13 Second: An amount which, with the revenues from the

14 water works, gas works, and any other revenue-producing works  
15 of property owned by or in charge of the city, will be sufficient to  
16 defray the expenses for the next fiscal year of all of the works  
17 and property, whether productive of revenue, or not, owned by  
18 or in charge of the city, which taxes, when collected, shall, to-  
19 gether with the revenues from such works, be kept in a separate  
20 fund to be called the public works fund. Of the amount levied  
21 to defray the expenses of the works and property owned by or in  
22 charge of the city, a specified portion, not exceeding twenty-five  
23 cents on every hundred dollars of the assessed value of all taxable  
24 property in the city, shall be for the purpose of paving or mac-  
25 adamizing streets or alleys in said city, except as otherwise pro-  
26 vided for in this act, and for the construction of sewers and curb-  
27 ing in said city, and all percentage or money compensation re-  
28 ceived by the city from franchises, grants, rights or privileges  
29 for the use of the streets, alleys or public grounds of the city,  
30 shall be used exclusively for the purpose of paving and repairing  
31 the streets and alleys of said city.

32       Third: An amount sufficient to pay the salaries of all offi-  
33 cers of the city, and the wages of all employees of the city, other  
34 than those engaged upon revenue-producing works, and all neces-  
35 sary, ordinary and contingent expenses of the city, not otherwise  
36 provided for, which, with all other moneys received by the city,  
37 not belonging to any other fund specified by this act, shall be  
38 kept as a separate fund, to be called the general city fund.

39       *Provided, however,* that this section shall not become effective  
40 and operative until it, section seventy-six, as herein above  
41 amended, shall have been submitted to the voters of the city of  
42 Wheeling at an election held for that purpose. The city council  
43 shall provide by ordinance for such election, and shall appoint  
44 judges and clerks for each precinct within the city. Notice of  
45 such election shall be published in two daily newspapers of oppo-  
46 site politics in said city of Wheeling once a week for two succes-  
47 sive weeks, the last publication to be not more than ten days be-  
48 fore the day of election. The ballots used when voting upon this  
49 amendment to said section seventy-six shall contain the words,  
50 "for ratification" and "for rejection." If a majority of the votes  
51 cast at such election shall be for ratification, then section seventy-six  
52 as herein amended and re-enacted, shall thereupon become valid  
53 and binding law; if, however, the majority of votes cast at such  
54 election shall be for rejection, then and in that event this amend-

55 ment to said section seventy-six shall be null and void and of no  
56 effect. The persons qualified to vote at any general municipal  
57 election shall be qualified to vote at such election, and no regis-  
58 tration of voters shall be required for such election.

Sec. 83. No debt shall be incurred by said city even with  
2 the consent of the voters, in an amount, including existing in-  
3 debtedness, in the aggregate exceeding five percentum on the  
4 value of the taxable property therein, as shown by the assessment  
5 for state and county taxes next preceding the incurring of such  
6 debt.

Sec. 84. Said city of Wheeling is hereby authorized to issue  
2 and sell its bonds. *Provided*, that the said city shall not by such  
3 issue and sale of bonds cause the aggregate of its debts of every  
4 kind whatsoever to exceed five percentum of the valuation of the  
5 taxable property therein, which value shall be ascertained by the  
6 last assessment for state and county taxes previous to the issue of  
7 said bonds, nor shall said city make such issue and sale without  
8 at the same time providing for the collection of a direct annual  
9 tax of an amount sufficient to pay the annual interest of such debt  
10 and the principal thereof within and not exceeding thirty-four  
11 years. Said city shall never impose or exact from the inhabitants  
12 thereof a greater amount annually than seventy cents on each one  
13 hundred dollars on the assessed value of property for state and  
14 county purposes.

15 No bonds shall be issued by said city unless all questions con-  
16 nected with the same shall have been first submitted to the quali-  
17 fied voters of said city and have received three-fifths of all the  
18 votes cast for and against same.

19 When the council shall deem it expedient to issue bonds, an  
20 ordinance specifying the purpose and amount for which such bonds  
21 are to be issued shall be adopted by them at regular meeting and  
22 it shall then be the duty of the mayor of the city to issue a procla-  
23 mation reciting said ordinance and appointing a day at which an  
24 election shall be held by the qualified voters of the city to decide  
25 whether they will ratify or reject said ordinance. Any bond ordi-  
26 nance may be voted on at the time of holding any general municipi-  
27 pal election or a special election may be held for the purpose of  
28 submitting said ordinance to a vote of the people. If a bond ordi-  
29 nance is submitted to a vote at the time of a general municipal  
30 election, separate ballots shall be provided therefor. Such procla-  
31 mation shall be published in two newspapers of opposite politics

32 published in the city once a week for two weeks previous to the  
33 day of election.

34 Such election shall be conducted in all things according to  
35 the laws governing elections in force at the time said election is  
36 being held and according to the provisions of the charter of the  
37 city. All persons qualified to vote at other municipal elections in  
38 the city shall vote at such elections as are herein authorized.

39 The person voting for the ratification of any such ordinance  
40 shall have written or printed on his ballot "for ratification," and  
41 the person voting against ratification shall have written or printed  
42 on his ballot the words "for rejection."

43 More than one ordinance may be submitted at any election, but  
44 each ordinance shall be separately voted upon; any ordinance may  
45 specify more than one purpose for which said bonds are to be is-  
46 sued, provided, however, that the amount to be appropriated for  
47 each purpose is also specified therein. The proclamation issued  
48 by the mayor, as hereinbefore provided, shall specify the aggregate  
49 amount of indebtedness, outstanding and authorized, of the city  
50 existing at the date of the proclamation.

51 Bonds issued by the city shall be of the denomination of one  
52 hundred dollars or multiples thereof not exceeding one thousand  
53 dollars. They shall be payable not less than one nor more than  
54 thirty-four years after date. They shall bear not more than six  
55 per cent. interest and the interest shall be payable either annually or  
56 semi-annually. No debt shall be created by the city as a bonded  
57 debt except when issued under the provisions of this charter.

58 It shall be unlawful for the officers of the city to privately  
59 issue or sell directly or indirectly any bond or bonds to be used in  
60 payment for work or materials to be furnished, but all such bonds  
61 shall be publicly sold to the highest bidder in writing to be ap-  
62 proved by the officers conducting the sale for cash or its equivalent  
63 in bonds previously issued by the city, and the money arising  
64 therefrom shall be used for the purpose specified in the ordinance  
65 providing for the issuing of same; before any sale of such bonds,  
66 said sale shall be advertised in some newspapers, not exceeding  
67 four, in or out of said city, for once a week for four weeks pre-  
68 vious to said sale.

69 The treasurer and his sureties shall be liable for the sinking  
70 fund and the amount levied for may be levied for a sinking fund  
71 and to pay interest on the bonded debt, and it shall be applied to  
72 the purposes for which it was levied or for investment in United

73 States bonds or bonds of the city, as the council may direct, to be  
74 used for the payment of principal and interest of any bonded debt  
75 of the city.

76 Bonds of the city shall be sold at not less than their par value.

77 The council shall provide in its ordinance that bonds of the  
78 city be signed by the mayor and city clerk and sealed with the  
79 seal of the city.

80 Should any of the fund derived from the issuance and sale of  
81 bonds of the city be diverted by the council or any officer or officers  
82 of the city from the purpose for which said bonds were issued and  
83 sold, such councilman or city officer using same or consenting to  
84 or aiding in the use thereof for such other purpose shall be guilty  
85 of a misdemeanor and be punished by a fine of not less than one  
86 hundred dollars and not more than five hundred dollars, or by im-  
87 prisonment not less than thirty days nor more than one year, or  
88 both.

89 The city may issue and sell its bonds for any of the purposes  
90 authorized in sections twenty-nine, forty-eight, fifty and fifty-two  
91 of chapter twenty-one of the acts of one thousand nine hundred  
92 and fifteen (greater Wheeling charter), passed by the legislature  
93 of the state of West Virginia on February thirteenth, one thou-  
94 sand nine hundred and fifteen.

95. All parts of chapter twenty-one, acts of one thousand nine  
96 hundred and fifteen, inconsistent with this amendment to said  
97 chapter are hereby repealed.

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## House Bill No. 272

AN ACT to amend and re-enact sections three, four-*a*, thirty, forty-one, forty-seven and forty-eight of chapter eighteen of the acts of the legislature of one thousand nine hundred and fifteen, relating to the charter of the city of Cameron, Marshall county, West Virginia.

*Be it enacted by the Legislature of West Virginia:*

That sections three, four-*a*, thirty, forty-one, forty-seven and forty-eight of chapter eighteen of the acts of the legislature of one thousand nine hundred and fifteen be amended and re-enacted as follows:

*Officers.*

Section 3. The officers of said city shall be a mayor, clerk, chief of police, and five councilmen. The clerk shall be ex-officio assessor, and the chief of police shall be ex-officio collector and street commissioner thereof. The said officers shall be elected by the qualified voters of said city. The mayor, clerk, and five councilmen shall constitute the common council of said city, which common council may, at its discretion appoint a superintendent of water works, city solicitor and such other officers as may be deemed necessary from time to time, and fix the term, duties and compensation thereof. No person shall be eligible to any elective office in said city unless he is a qualified voter thereof, nor unless he has resided therein for at least one year next preceding his election, nor who shall have not been assessed for taxation with real estate or personal property of the value of at least one hundred dollars.

Sec. 4-a. This act shall take effect on the first Thursday in January, one thousand nine hundred and twenty, at which time the first election for city officers shall be held. Said election shall be held and conducted, and the results thereof be ascertained, returned and determined, under such rules and regulations as may be prescribed by the council of the town of Cameron, the same being consistent with the general laws of the state governing municipal elections, and shall conform as nearly as may be thereto; but the proclamation calling said election, shall, in addition to the usual matters in such proclamations contained, call attention to this act, and state fully the boundaries of the city of Cameron herein before contained. On the said last named day, there shall be elected a mayor, clerk, chief of police and five councilmen, who shall be elected for a term of two years beginning on the first day of February next succeeding their election.

Sec. 30. The clerk shall prepare bills for all license taxes due said city, whenever the same shall become due and payable, and turn said bills over to the chief of police for collection, charging him therefor. The said chief of police shall proceed at once to collect all such taxes on licenses, and account to the treasurer therefor, as required herein for other collections. The said clerk shall keep his office at the office of the mayor, unless otherwise ordered by council, and shall keep his office open for the transaction of business during such business hours as may be necessary

10 for the proper performance of his several duties. It shall be his  
11 duty to prepare the annual financial statement of said city, and  
12 when approved by the committee on finance, cause the same to be  
13 published in some newspaper published in said city; and if there  
14 be no newspaper so published, then in some newspaper published  
15 in Marshall county, West Virginia.

16 The said clerk shall receive such compensation as may be  
17 fixed by council from term to term, which shall not be more than  
18 six hundred dollars per annum.

*Street Commissioner.*

Sec. 41. The chief of police shall be ex-officio street com-  
2 missioner for said city, who shall perform all such duties as may  
3 now or hereafter, by ordinances, be imposed upon him.

*Sidewalks.*

Sec. 47. The council may lay out and establish sidewalks or  
2 footways on the streets, avenues or alleys of the said city and may  
3 require the same to be paved with brick, stone or other suitable  
4 material as the council may determine, under the direction of the  
5 chief of police, by the owners respectively of the lots or fractional  
6 parts of lots, facing or abutting on such sidewalks or footways,  
7 and if the owners of any such sidewalk or footway, or of the real  
8 property next adjacent thereto, shall fail or refuse to pave the  
9 same in the manner or within the time required by the council,  
10 it shall be the duty of the council to cause the same to be done  
11 at the expense of the city, and to assess the amount of such ex-  
12 pense upon such owner, and the said assessment be not paid within  
13 thirty days from the date of said notice the clerk shall turn the  
14 same over to the city collector for collection; which collection  
15 may be made in the same manner as is now provided for the  
16 collection of city taxes, or by an action in the circuit court of  
17 Marshall county, West Virginia, or before any justice of the  
18 peace of said county having jurisdiction in the matter, and a  
19 judgment obtained before said court or justice may be recorded in  
20 the office of the clerk of the county court of Marshall county,  
21 West Virginia, in the judgment lien docket and may be enforced  
22 in the same manner as other judgments against real estate are  
23 now enforced.

24 The provisions of this section shall also be applicable to

25 needed repairs to any of the pavements of the city, and to the  
26 substitution of new pavements for any which may have been  
27 heretofore, or which may be hereafter laid and completed, and  
28 which may be deemed insufficient.

29 *Provided, further,* that in the instance where there is a long  
30 stretch of sidewalk on any one street in the city, the common  
31 council may require one sidewalk and may decide upon which  
32 side of the street the walk shall be constructed, and in lieu of the  
33 property owner on the opposite side of said street being required  
34 to construct a sidewalk upon their own side, such owners may  
35 be exonerated from building a sidewalk in front of their own  
36 property contributing to the costs of the construction of such  
37 sidewalk adopted by the council; such contribution shall be in  
38 such amounts proportionate to the costs of the work of building  
39 such sidewalk as the council may determine.

40 *Street Paving.*

41 The council shall have the right when in its opinion it is  
42 necessary and proper to do so to pave and properly sewer, or pave  
43 or sewer any street or alley of the said city and to charge one-  
44 third of the total costs thereof of preparing and paving and  
45 sewerage, or paving or sewerage, of the said street or alley to the  
46 property owners on each side of each respective streets or alleys,  
47 and pay one-third thereof out of such funds as the council may  
48 provide for such paving and sewerage which they have done, and  
49 such assessments and charges made against the property owners  
50 as is provided by the general laws of the state of West Virginia.

51 The provisions of this section shall be applicable to the re-  
52 paving and sewerage of any street or alley in said town which  
53 has heretofore been paved or sewered and which may need to  
54 be taken up and relaid and properly sewered.

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## House Bill No. 280

AN ACT to amend and re-enact section three of chapter nineteen of  
municipal charters of the acts of the legislature of West Virginia  
of one thousand nine hundred and fifteen, granting a charter to  
the city of Point Pleasant in the county of Mason.

*Be it enacted by the Legislature of West Virginia:*

That section three of chapter nineteen of municipal charters of the



acts of the legislature of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 3. The territory of said city is hereby divided into 2 five wards, as follows: That part thereof lying south of Second 3 street, and the same produced and extended as a line from the 4 intersection thereof with Walnut street to the east corporation line 5 by the shortest distance, shall constitute the first ward; that part 6 thereof lying north of the north line of the first ward hereinbefore 7 described, and south of Eighth street, produced and extended as a 8 line from the east end thereof to the east corporation line, shall con- 9 stitute the second ward; that part thereof lying north of Eighth 10 street produced and extended as aforesaid as a line to a point on 11 the Ohio river due west of the plant of the Point Pleasant water 12 and light company, and running due east to a point on the east 13 corporation line by the shortest distance shall constitute the third 14 ward; that part thereof lying north of said last named division line 15 extended as aforesaid as a line on the south side of Twenty-second 16 street extending east to the corporation line and west to Oak street, 17 and south on Oak street to the first street running due west to the 18 Ohio river shall constitute the fourth ward; and all that part lying 19 north of the south side of Twenty-second street produced and ex- 20 tended as aforesaid shall constitute the fifth ward.

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## House Bill No, 152

AN ACT to amend and re-enact section two of the part entitled "Greater Wheeling Charter" of an act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled: "An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven," entitled: "An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh, one thousand eight hundred and thirty-six," entitled: "An act to incorporate the city of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling"; chapter eleven of the acts of said legislature of West Virginia

of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the city of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election held on the fourth Thursday in May, one thousand nine hundred and fifteen.

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter twenty-one of the acts of one thousand nine hundred and fifteen (Greater Wheeling Charter )and approved by a majority of the voters of the city of Wheeling at an election held on the first Thursday of May, in the year one thousand nine hundred and fifteen, be and the same is hereby repealed and a new section be and is hereby in lieu thereof, to be known as section two, as follows:

Section 2. The city of Wheeling may extend its boundaries  
2 so as to include all of the lands, grounds, waters, water courses,  
3 and territory contained with the following boundaries (all of  
4 which is within Ohio county, West Virginia) in addition to the  
5 lands, grounds, waters, water courses and territory included with-  
6 in the city of Wheeling as at present bounded:

7 Commencing for the same at a point in the south line of the  
8 Jacob Zilles property, said point being also located at the north-  
9 east corner of the present corporate limits of the town of War-  
10 wood, in Richland district of said county and state; thence with  
11 the easterly corporate boundaries of said town as the same are  
12 recorded in the office of the clerk of the circuit court of said  
13 county in law order book number thirty-one, at page four hundred  
14 and sixty-eight; south fourteen degrees east nine hundred and  
15 sixty-eight feet to the northeast corner of the sub-division known  
16 as Glenova, a plat of said sub-division being recorded in the office  
17 of the clerk of the county court of said county in plat book  
18 number one, at page seventy-one; said corner being located at a  
19 distance of three hundred and eighty-eight feet east of the River  
20 county road; thence with the easterly lines of Wilston avenue of

21 said sub-division south five degrees east five hundred and  
22 sixty-five and nine-tenths feet; south three degrees thirty  
23 minutes west two hundred and seventy feet; south five  
24 degrees thirty minutes east four hundred and eighty  
24-a feet; south three degrees thirty minutes east two hundred  
25 and ten feet; south five degrees thirty minutes east five hundred  
26 and ninety-one feet to the southeast corner of said sub-division;  
27 thence leaving the lines of the said sub-division and crossing  
28 Glenns run south thirty minutes east eight hundred one and  
29 eight-tenths feet to a point in the north side of Cherry Hill road,  
30 said point being located three hundred and fifty-three feet east  
31 of the said River road; thence with the west line of Orchard  
32 avenue of the subdivisions known as Warwood south five degrees  
33 fifteen minutes east two thousand five hundred and seventy feet  
34 to a point in the south line of said subdivision located three  
35 hundred and fifty feet east of the aforesaid River road; thence  
36 through the property of George and Casper Dorsch south six  
37 degrees fifteen minutes west eight hundred eighteen and five-  
38 tenths feet to a point in the south line of same located two hun-  
39 dred and forty-five feet east of the aforesaid River road, said  
40 point being located at the northeast corner of a subdivision known  
41 as South Warwood, a plat of said sub-division being recorded  
42 in said county clerk's office in plat book number one, at page  
43 one hundred and sixty-six; thence with the east line of said sub-  
44 division south thirty degrees fifteen minutes west seven hundred  
45 seventy-seven eight-tenths feet to a point at the southeast corner  
46 of said subdivision, said point being located two hundred and  
47 twenty-five feet east of the said River road; thence south seven-  
48 teen degrees fifteen minutes west two hundred seventy-five and  
49 eight-tenths feet; thence south twenty degrees forty-five minutes  
50 west one thousand twelve and five-tenths feet to a point in a  
51 north line of the subdivision known as Loveland, a plat of said  
52 subdivision being recorded in the said county clerk's office in  
53 plat book number one, at page one hundred and thirteen; said  
54 line being also the southerly line of the property owned by  
55 Conrad Lasch heirs; thence with said line south sixty-six degrees  
56 forty-five minutes east four hundred and five feet to a point at  
57 the northeast corner of said last mentioned subdivision; thence  
58 leaving the corporate boundaries of said town of Warwood and  
59 with the easterly extension of the last described line south sixty-  
60 six degrees forty-five minutes east eight hundred twenty-nine

61 and four-tenths feet to a post at the northeast corner of the  
62 Loveland improvement company's property, said post being also  
63 in a line of the farm owned by the J. W. Nichols estate; thence  
64 with a line of the same south twenty-seven degrees thirty-six  
65 minutes west three hundred twelve and nine-tenths feet to a  
66 post, corner to a farm owned by Lydia E. Marshall; thence with  
67 the westerly lines of same south thirty-four degrees thirty-five  
68 minutes west one thousand six hundred and thirty-five feet to a  
69 point at the southeast corner of the said improvement company's  
70 property, said point being also located at the northeast corner of a  
71 tract of land owned by the Richland coal company and being part  
72 of lot number seven of the sub-division of the A. P. Woods home  
73 farm, a plat of said subdivision being recorded in the said county  
74 clerk's office in deed book number forty-eight, at page three  
75 hundred and eighty-nine; thence with the easterly line of same  
76 south thirty degrees west eighty-one and twenty-four one hun-  
77 dredths poles to a stake; formerly a hickory stump, corner to  
78 subdivision "A", "C" and "G" of the Walter Marshall farm;  
79 thence in a northeasterly direction with the road through said  
80 farm nine and sixteen-one hundredths poles to a stake, corner  
81 to subdivision "C" and "D" of said farm; thence with the lines  
82 between the last mentioned subdivisions south fifty-one degrees  
83 east fifty-one and one-half poles; south thirty-nine and three  
84 fourths degrees east one hundred one and twenty-four nine hun-  
85 dredths poles to a corner of a tract of land owned by Agra Mc-  
86 Kinley; thence with the southerly lines of the lands of L. Mar-  
87 shall, Frederick Schaefer and George Landmyer and with the  
88 northerly lines of Agra McKinley, D. M. Alexander and another  
89 tract owned by George Landmyer north eighty-three degrees fifty  
90 minutes east two thousand six hundred and twenty-eight feet  
91 to a point in a line of the farm owned by J. W. Nichols estate  
92 thence with said line and with the line between the farm owned  
93 by the J. C. Campbell estate and the tract owned by D. M. Alex-  
94 ander and its extension south forty-two degrees fifteen minutes  
95 east three thousand two hundred and ninety feet to a point in  
96 the Waddells run county road; thence crossing the lands of  
97 Frederick Fisher, Peter Storch, Sisters of Our Lady of Charity  
98 and J. E. Green south fifteen degrees sixty-six min-  
99 utes east four thousand eight hundred and ninety-  
100 two feet to the most northerly corner of a nineteen  
100-a and six-tenths acre tract that was conveyed to George

101 Rentch by J. E. Green and wife by deed recorded in said county  
102 clerk's office in deed book number one hundred and thirty-five, at  
103 page five hundred and seventy-three; thence crossing said tract  
104 south twenty-five degrees fifteen minutes east eight hundred and  
105 seventy-six feet to the most easterly corner of said tract; thence  
106 crossing the lands of the Goshorn estate south thirty-eight de-  
107 grees thirty minutes east two thousand feet to an oak, corner to  
108 the lands of the Goshorn estate and the Baird farm; thence with  
109 a line between said last mentioned farms south thirty-two degrees  
110 forty-five minutes east three hundred and forty-two feet to a  
111 corner of the Hess farm; thence with a line of the same south  
112 thirty-four degrees thirty minutes east fifty-nine and five-tenths  
113 poles to a corner of the W. F. Krieger farm; thence crossing the  
114 same south thirty-four degrees forty-five minutes east ninety-  
115 three and seventy-seven one hundredths poles to a corner of  
116 Wheeling Park; thence with an easterly line of same south thirty-  
117 four degrees thirty minutes east seventy-two poles to a line of a  
118 tract owned by J. Deickman thence with a line of same north  
119 seventy-six degrees east thirty-five feet to its northeast corner;  
120 thence south thirty-three degrees east one thousand nine hundred  
121 and ninety feet to a point in an original line of the Cruger estate;  
122 thence with the same north fifty-nine degrees twenty-five minutes  
123 east nine hundred and forty-four feet to a stone corner to the Bo-  
124 nig, White, McClure and Burkham farms; thence with a line of  
125 the last mentioned farm south thirty-three degrees thirty minutes  
126 east one hundred seventy-six and nine-tenth poles to a beech on  
127 top of the northerly bank of Little Wheeling creek; thence up  
128 said creek in an easterly direction following along to top of the  
129 northerly bank of same one thousand and fifty feet, more or less,  
130 to its intersection with the northwesterly extension of the center-  
131 line of Hervey lane as the same is shown on the subdivision  
132 known as Sigma Pons, a plat of said subdivision being recorded  
133 in said county clerk's office in plat book number one, at page one  
134 hundred and forty-three; thence with said extension and with  
135 said centerline and its southeasterly extension, crossing said  
135-a creek, south eighteen degrees thirty minutes east one thousand  
136 two hundred and ninety feet; thence south eighty degrees west  
137 one thousand seven hundred and fifty feet to a point in an orig-  
138 inal line of the Shepherd estate, said point being also located  
139 at the most easterly corner of the present corporate limits of  
140 the town of Elm Grove in Triadelphia district, said county and

140-a state; thence with the corporate boundaries of said town south  
141 twenty-six degrees forty-five minutes west one thousand five  
142 hundred feet to a point on the east side of the Stone church road;  
143 thence south fifty-six degrees forty-five minutes west two hundred  
143-a and ninety-six feet; thence south seventy degrees fifteen minutes  
144 west four hundred and fifty feet to the northeast corner of the  
145 present corporate limits of the town of Patterson, in Triadelphia  
145-a district, said county and state; thence with the corporate boun-  
146 daries of said last named town south sixteen degrees thirty-  
147 three minutes west nine hundred and eighty-seven feet to a white  
147-a oak; thence south eleven degrees thirty-two minutes west one  
148 thousand two hundred ninety-seven feet to a stake; thence north  
149 fifty-seven degrees fifty minutes west five hundred fifty-five feet  
150 to a point in Monument and Big Wheeling creek county road;  
150-a thence crossing said creek south fifty degrees ten minutes west  
151 nine hundred and seventy-five and five-tenths feet to a fence post;  
152 thence south thirty-three degrees forty-three minutes west five  
153 hundred and ninety-six feet to a post; thence north fifty-two  
153-a degrees nine minutes west one thousand seven hundred and  
154 ninety-one feet to a large locust; thence north nineteen degrees  
155 twenty-five minutes east seven hundred and eighty-six feet to a  
155-a stake; thence north twenty-five degrees two minutes east fifty  
156 feet to a point in the public road leading from the Wheeling and  
156-a Elm Grove county road to the George H. P. Schmidt farm;  
157 thence leaving the corporate boundaries of the said town of Pat-  
157-a terson and with the center line of said public road north forty-  
158 five minutes east five hundred feet; north thirty degrees east  
158-a nine hundred and thirty feet to a point in the present corporate  
159 limits of said town of Elm Grove; thence with the corporate  
159-a boundaries of said last mentioned town north sixty degrees  
160 west seven hundred twenty-six feet to a point between two wal-  
160-a nuts; thence north fifteen degrees fifteen minutes west one thou-  
161 sand five hundred twenty-five feet to a stake; thence north twenty-  
161-a eight degrees forty-five minutes west seven hundred and sev-  
162 enty-four feet to a stake; thence north forty-five degrees fifteen  
162-a minutes east nine hundred feet to an elm on top of the west  
163 bank of Wheeling creek; thence leaving the corporate boundary  
163-a lines of the said town of Elm Grove down said creek follow-  
164 ing the top of the westerly bank of same seven thousand seven  
164-a hundred feet, more or less, to a point at the intersection of the  
165 top of the westerly bank of said creek with the westerly extension

165-a of the present northerly line of Greenwood cemetery; thence  
166 leaving the top of the westerly bank of said creek and running in  
166-a a due west direction six thousand five hundred feet; more or  
167 less, crossing the lands of Hugh Clare estate, J. Flynn and W. P.  
167-a Hubbard and A. Reymann to a point in the present corporate  
167-b boundary lines of the city of Wheeling; thence with the present  
168 corporate boundary lines of the city of Wheeling as described by  
168-a an act of the legislature passed February third, one thousand  
169 eight hundred and seventy-one, entitled "An act to amend the  
169-a charter and extend and prescribe the limits of the city of Wheel-  
170 ing," and in a northerly and then westerly direction, crossing the  
170-a Ohio river, to the line between the state of West Virginia and  
171 Ohio, said last mentioned point being at the north side of Hanover  
171-a street in the town of Martins Ferry, Belmont county, Ohio, and  
172 also the most northerly corner of the present corporate limits of  
172-a the city of Wheeling; thence leaving the present corporate  
173 boundary lines of the city of Wheeling and continuing in a north-  
173-a wardly direction with the line between the states of Ohio and  
174 West Virginia, which is low water mark along the westerly shore  
174-a of said river to a point at the intersection of the westerly ex-  
175 tension of the present northerly corporate boundary line of the  
175-a said town of Warwood; thence with said extension crossing the  
176 river north eighty-six degrees thirty minutes east to the north-  
176-a west corner of the present corporate limits of said town of  
177 Warwood; thence with the north boundary line of said town of  
177-a Warwood and with the south line of Jacob Zilles' property  
178 north thirty-eight degrees thirty minutes east eleven hundred  
178-a feet to the place of beginning, containing seventy-six hundred  
179 (7600) acres, more or less.

180       Embraced within the above boundaries are the incorporated  
181 towns of Warwood in Richland district, Fulton in Washington  
182 and Triadelphia districts and Woodsdale, Leatherwood, Edge-  
183 wood, Pleasant Valley, Elm Grove and Patterson in Triadel-  
184 phia district, said county and state..

185       Such extension of boundaries shall be proposed by a reso-  
186 lution of the city council of the city of Wheeling, which resolu-  
187 tion shall

188       (a) accurately define the boundary lines of the territory  
189 proposed to be annexed as herein set forth,

190       (b) fix a time for holding a special election at which the

191 proposed change of boundaries shall be submitted to the quali-  
192 fied voters of the city of Wheeling, and of the territory pro-  
193 posed to be annexed, for approval or rejection,

194 (c) direct that notice of such election be published in each  
195 of the daily and weekly newspapers in the city of Wheeling,  
196 once a week for four successive weeks, the last publication to  
197 be not more than ten days before the day of the election,

198 (d) prescribe the form of ballot to be used at such elec-  
199 tion.

200 The city council of the city of Wheeling, through the city  
201 solicitor, shall notify the mayor of each municipality within the  
202 territory herein described, of the proposed extension of bound-  
203 aries at least six weeks before the time fixed for the election  
204 herein provided for, whereupon, it shall be the duty of the city  
205 council of such municipality to provide for such election by  
206 appointing judges and clerks for each precinct within such  
207 municipality and certify the names of such appointees to the  
208 city council of Wheeling within three weeks from the service  
209 of notice upon the mayor thereof. If such certificate is not so  
210 filed, the city council of Wheeling shall appoint such judges and  
211 clerks of election. Qualified voters residing in any portion of  
212 the described territory which is not within the limits of the  
213 municipal corporation, may vote at such election at a precinct  
214 convenient to their respective places of residence. So far as  
215 they are applicable, and except as specific provision is made  
216 in this charter, such election shall be governed by the general  
217 election laws of the state of West Virginia.

218 When the result of such election is ascertained and certified,  
219 the mayor of the city of Wheeling shall issue his proclamation  
220 of such result and cause the same to be published in each daily  
221 and weekly newspaper in the city of Wheeling within five days  
222 of such certification, and if a majority of the votes cast at such  
223 election shall be in favor of such extension, then all of the terri-  
224 tory within the boundaries herein described shall be and become  
225 a part of the city of Wheeling, on the first day of January, one  
226 thousand nine hundred and twenty, and beginning on that date,  
227 the city of Wheeling shall include all of the territory within  
228 the boundaries herein set forth in addition to the territory con-  
229 stituting the city of Wheeling as at present bounded, and the  
230 corporate existence of any municipality included within the



231 boundaries herein described shall thereupon cease and deter-  
232 mine; except that no moneys in the treasuries of the separate  
232-a municipalities affected shall be turned over to the treasurer of  
232-b the city of Wheeling, and no tax shall be levied upon the tax-  
232-c able property within the boundaries of the territory annexed  
232-d nor upon the inhabitants thereof until proper representation  
232-e of the said annexed territory in the council of the city of  
232-f Wheeling is provided according to law; and if a majority of the  
233 votes cast at such election shall not be in favor of such extension,  
234 then the boundaries of the city of Wheeling shall remain as they  
235 now are and the territory within the boundaries herein stated  
236 shall be in no way affected by such election. All expenses of  
237 holding such election, the payment whereof is not now provided  
238 by law, shall be paid by the city of Wheeling.

239 The failure, neglect or refusal of the publisher of any  
240 newspaper in Wheeling to publish either the notice or procla-  
241 mation herein provided for, shall not effect the validity of the  
242 proceedings to extend the boundaries of the city of Wheeling  
243 if such publication shall appear in two of such papers.

244 If at the time of the extension of its boundaries the city  
245 of Wheeling shall have a bonded indebtedness, the taxes there-  
246 after levied to provide for such indebtedness, principal and in-  
247 terest, shall be levied upon the taxable property within the cor-  
248 porate limits of the city of Wheeling as they existed before  
249 the extension of its boundaries. If any municipal corporation  
250 within the boundaries herein described at the time of such ex-  
251 tension shall have a bonded indebtedness, then the taxes there-  
252 after levied to provide for such bonded indebtedness, principal  
253 and interest, shall be levied upon the taxable property within  
254 the corporate limits of such other municipality as they existed  
255 before such extension of boundaries.

256 Should the territory herein described be annexed to the  
257 city of Wheeling in the manner herein set forth, then from and  
258 after the time of such annexation all of the debts and obliga-  
259 tions of any municipality included within the boundaries herein  
260 set forth shall become and be the debts and obligations of the  
261 city of Wheeling, and shall be enforceable against the city of  
262 Wheeling to the same extent as they might have been enforced  
263 against the municipality creating them.

264 Nothing in this act contained shall be construed as ren-

265 dering the city of Wheeling responsible for the up-keep, care,  
266 repair or maintenance of any part of the National or Cumber-  
267 land road except in like manner as the city of Wheeling is now  
268 responsible for the up-keep, care, repair and maintenance of the  
269 part of such road now lying within the corporate limits of said  
270 city; and the rights, powers and duties of the city of Wheel-  
271 ing and the county of Ohio over said National or Cumberland  
272 road as said road lies within the new corporate limits as herein  
273 set forth, shall, in the event of annexation, be the same as they  
274 are now established by law over the part of such road within the  
275 present corporate limits of the city of Wheeling.

276       It shall be the duty of the city of Wheeling to furnish, in  
277 the event of annexation, to the territory so annexed full and  
278 complete fire and police protection, in quality equal to that  
279 furnished to the territory within the corporate limits of the city  
280 of Wheeling as such corporate limits existed before such an-  
281 nexation, and such police protection shall be furnished immedi-  
282 ately upon such annexation and such fire protection as soon  
283 thereafter as the same may reasonably be provided. It shall  
284 further be the duty of the city of Wheeling properly to light  
285 such annexed territory and to furnish water to the inhabitants  
286 thereof at a rate not to exceed the rate charged to the inhabi-  
287 tants of the territory within the limits of the city of Wheeling  
288 as such limit existed before such annexation; but nothing herein  
289 contained shall be construed as in any way interfering with any  
290 franchise, contract, agreement, right or privilege held by any  
291 public service corporation from any municipality in said an-  
292 nexed territory included.

293       No franchise, right or privilege, as provided in section  
294 twenty-four of this charter shall be granted by the council of  
295 the city of Wheeling after the election herein above provided  
296 for, nor shall any ordinance except a necessary appropriation  
297 ordinance be passed by said council unless and until proper  
298 representation of the said annexed territory in the council of  
299 the city of Wheeling is lawfully provided; and the privileges  
300 of initiative and referendum as provided in sections twenty and  
301 twenty-one hereof are held and enjoyed by the voters of said  
302 territory.

303       In the event of annexation, the territory so annexed shall,  
304 until otherwise changed by ordinance as provided in section  
305 three of this charter, constitute two wards of the city of Wheel-

306 ing and within a period of thirty days after the election herein  
307 provided for shall have been held, the councils of the various  
308 municipalities within such annexed territory shall appoint two  
309 representatives who shall be residents of the annexed territory  
310 and who shall, by virtue of such appointment, be members of  
311 the council of the city of Wheeling and entitled to all the privi-  
312 leges of members of said council until the members of council  
313 elected at the next succeeding general municipal election shall  
314 have qualified.

315 The extension of the boundaries of the city of Wheeling  
316 shall not effect the boundaries or the organization of any school  
317 district theretofore existing.

318 *Provided, however,* that the said election for the annexation  
319 of the territory within the boundaries herein set forth, shall be  
320 held not before October first, one thousand nine hundred and  
321 nineteen, and not later than December first, one thousand nine  
322 hundred and nineteen; and should the vote at such election be  
323 in favor of such annexation then the territory included within  
324 the boundaries herein set forth shall be and become a part of  
325 the city of Wheeling on January first, one thousand nine hun-  
326 dred and twenty.

327 This act shall take effect one hundred and twenty days  
328 from its passage.

329 All acts and parts of acts inconsistent with this act are  
330 hereby repealed.

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## House Bill No. 172

AN ACT to create and to incorporate the municipal corporation of the  
city of Welch in the county of McDowell and state of West Vir-  
ginia, and to grant a charter thereto, and defining the powers of  
said city and the officers thereof and fixing the corporate limits  
of said city.

*Be it enacted by the Legislature of West Virginia:*

### ARTICLE I.

#### *The City of Welch.*

Section 1. That the inhabitants of so much of the county of  
2 McDowell, in the state of West Virginia, included in the boun-

3 daries described in section two of this act, be and they are hereby  
4 created and are to remain and continue a municipal corporation  
5 by the name of the city of Welch, by which name they shall have  
6 perpetual succession and a common seal, and by which name they  
7 may sue and be sued, plead and be impleaded, contract and be  
8 contracted with, purchase and otherwise acquire and hold real  
9 estate and personal property needed in the discharge of the func-  
10 tions of government conferred by this charter.

## ARTICLE II.

### *Corporate Limits.*

Sec. 2. The corporate limits of the city of Welch shall be as  
2 follows, that is to say: Beginning at a stake near the mouth of  
3 Fish Trap branch of Elkhorn fork of Tug river; thence south  
4 fifty degrees forty minutes west nine thousand six hundred and  
5 twenty-seven feet crossing Elkhorn and Big branch of same to a  
6 stake in the lower edge of the county road, about nine hundred  
7 feet above the mouth of Little Indian creek and in a line of the  
8 Adkin district; thence south thirty degrees north eight hundred  
9 feet crossing Tug river to a stake on a spur; thence north fifty-  
10 four degrees thirty minutes west two thousand four hundred and  
11 fifty feet to a stake near Little Indian creek; thence north four  
12 degrees thirty minutes east seven thousand nine hundred and  
13 fifty feet to a stake in a line of the present corporation limits;  
14 thence with same south seventy-seven degrees west eight hundred  
15 feet to a poplar, spruce pine and double beech on the bank of  
16 Cub branch; thence north sixty-four degrees thirty minutes west  
17 six hundred feet to the top of a spur where a white oak is called  
18 for; thence north twenty-two degrees east seven hundred feet  
19 to a stake on the north bank of Tug river; thence north eighty-  
20 four degrees east six hundred and fifty feet to a stake in a line  
21 of said corporate limits; thence leaving said line and running up  
22 a spur north twenty-eight degrees five minutes east four hundred  
23 feet; north seventy-three degrees six minutes east one hundred  
24 seventy-eight and six-tenths feet, north seventy-eight degrees east  
25 three hundred thirty-three and seven-tenth feet; north forty-seven  
26 degrees thirty minutes east ninety-two feet; north forty-nine de-  
27 grees east ninety-seven feet; north sixty-two degrees thirty minutes  
28 east four hundred and ninety-seven feet; north forty-six degrees  
29 east two hundred twenty-four and six-tenths feet; north thirty-  
30 seven degrees east ninety-six and six-tenths feet, north seventy-

31 six east one hundred thirty-four and five-tenths feet, south eighty-  
32 eight degrees east one hundred and seventy-six feet, south thirty  
33 degrees east three hundred eighty-three and one-tenth feet; south  
34 fifty-seven degrees east eighty-one and two-tenths feet; north  
35 eighty-nine degrees east two hundred and sixty-three feet; north  
36 eighty-eight degrees thirty minutes east two hundred and ninety-  
37 eight feet to a stake on top of the ridge between Tug river and  
38 Browns creek; thence leaving the top of said spur and ridge, south  
39 seventy-four degrees thirteen minutes east two thousand five hun-  
40 dred thirty-three and six-tenths feet to a stake near the mouth of  
41 Graveyard hollow of Browns creek and about twenty feet north of  
42 the county road; thence south fifty-three degrees forty-three  
43 minutes east five thousand six hundred and forty-nine feet, cross-  
44 ing Browns creek and ridge between Browns creek and Elkhorn  
45 to the beginning, containing one thousand five hundred and ten  
46 acres.

#### ARTICLE III.

##### *Boundaries of Wards.*

Sec. 3. The said city of Welch shall be divided into three  
2 wards, which shall be bounded as follows:

##### *First Ward.*

3 All the following described boundary shall constitute the  
4 first ward of the said city, that is to say: Beginning at a point  
5 in the center of Tug river and in the corporate lines of said city  
6 just above the mouth of Little Indian creek; thence with the  
7 corporate lines of said city and in an easterly direction to a point  
8 in said corporate line and the center of Elkhorn creek where same  
9 crosses said line; thence down said Elkhorn creek to a junction  
10 of the Tug river; thence up the center of Tug river to the point  
11 of beginning.

##### *Second Ward.*

12 All the following described boundary shall constitute the  
13 second ward of said city, that is to say: Beginning at a point in  
14 the center line of the main track of the Norfolk & Western rail-  
15 way at mile post three hundred and ninety-nine; thence westerly  
16 with said railway line to a point in the center of the Tug river  
17 where the said railway line crosses the same; thence down the  
18 center of said Tug river to the mouth of Browns creek; thence up

19 the center line of the said Browns creek to a point where the same  
20 crosses the corporate line of the said city of Welch, thence in a  
21 southerly direction with the said corporate line to the center of  
22 Elkhorn creek at a point in the line of the first ward; thence down  
23 the center of said Elkhorn creek to a point opposite mile post  
24 three hundred and ninety-nine of the Norfolk & Western railway;  
25 thence in a straight line to the beginning.

### *Third Ward.*

26 All the following described boundary shall constitute the  
27 third ward of the said city, that is to say: Beginning at a point  
28 in the center of Tug river in the corporate line of said city above  
29 the mouth of Little Indian creek, a corner of the line of first  
30 ward; thence in a northwesterly direction and with the corporate  
31 line of said city to a point where the same crosses the Browns  
32 creek, a corner in the lines of the second ward; thence down the  
33 center of Browns creek and up the Tug river with the lines of  
34 the second ward to the point in the center of the Norfolk &  
35 Western railway bridge and corner in the line of the said second  
36 ward; thence with the railway to mile post three hundred and  
37 ninety-nine; thence southwardly with a line of the second ward  
38 to the center of Elkhorn creek; thence down said Elkhorn creek  
39 and up the Tug river with the lines of the first ward to the be-  
40 ginning.

## ARTICLE IV.

### *Municipal Authorities.*

Sec. 4. The municipal authorities of the said city of Welch  
2 shall consist of a mayor, recorder and five councilmen, who shall  
3 constitute the council of said city and shall be elected by the voters  
4 of said city as hereinafter prescribed. One councilman shall be  
5 elected by the voters of each of the respective wards, and two  
6 councilmen shall be elected by the voters at large.

Sec. 5. All the corporate powers and functions pertaining  
2 to said city shall be exercised by its council, or under its author-  
3 ity, in the corporate name of said city, unless otherwise provided  
4 by state law or municipal ordinance.

Sec. 6. The city council shall appoint a street commissioner,  
2 a health commissioner, city engineer, chief of police, and any ad-  
3 ditional police officers that they may deem necessary, city attorney,

4 chief of fire department, building inspector, and all other officers  
5 whose offices may be established by ordinance of the city council  
6 or by this act, and such officers shall hold the respective offices to  
7 which they are appointed during the pleasure of the council and  
8 until their successors are appointed and qualified. The several  
9 offices, or any two or more may be held by the some person, *pro-*  
10 *vided*, a councilman the mayor and the recorder shall not be eli-  
11 gible to any of the appointive offices, and such officers shall re-  
12 ceive such compensation as the council may prescribe, by ordi-  
13 nance or order, unless said compensation be fixed by this act,  
14 and the same shall not be increased or diminished during the  
15 term for which the appointment was made.

Sec. 7. No person shall be eligible to the office of mayor,  
2 recorder or councilman, unless at the time of his election he is  
3 legally entitled to vote in the city election for member of the  
4 common council; and he was for the preceding year assessed with  
5 taxes upon real or personal property within the said city, of the  
6 assessed aggregate value of at least three hundred dollars, and  
7 shall actually have paid the taxes so assessed.

#### ARTICLE V.

##### *Elections.*

Sec. 8. On the first Tuesday in June, one thousand nine  
2 hundred and twenty, and every two years thereafter, on the first  
3 Tuesday in June, there shall be elected by the qualified voters of  
4 said city, a mayor, a recorder and two councilmen and by the  
5 qualified voters of each of the three wards one councilman. The  
6 term of office of said mayor, recorder and councilmen shall be  
7 for the period of two years, commencing on the first day of July,  
8 next after their election, and until their successors shall be elected  
9 and qualified.

Sec. 9. Every male person residing in said city shall be  
2 entitled to vote for all officers elected under this act; but no  
3 person who is a minor, or of unsound mind, or a pauper, or who  
4 is under conviction of treason, or bribery in an election, or who  
5 has not been a resident of this state for one year and of said  
6 city for six months next preceding the election at which he de-  
7 sires to vote, shall be permitted to vote therein.

Sec. 10. All qualified voters within the city of Welch en-  
2 titled to vote in the municipal election held therein shall be

3 registered in like manner as are the qualified voters in state and  
4 county elections, and the state laws of the state of West Vir-  
5 ginia in effect at the time of such registration shall in all things  
6 apply thereto; except the fee for such registration shall be five  
7 cents for each qualified voter so registered, and the powers con-  
8 ferred upon the county court by the laws in reference to the reg-  
9 istration of voters are hereby conferred upon the council of said  
10 city of Welch.

Sec. 11. In all elections by the people the mode of voting  
2 shall be by ballot, but the voters shall be left free to vote an open,  
3 sealed or secret ballot, as they may elect. The election in said  
4 city shall be held and conducted and the result thereof certified,  
5 returned and finally determined under the laws in force in this  
6 state relating to general elections, except that the persons con-  
7 ducting said elections shall, on the day after the election is held  
8 deliver the ballots, tally sheets and poll books to the recorder, and  
9 thereafter the council of said city shall meet within five days  
10 (Sundays excepted) after said election and canvass the returns  
11 of said election, and declare the result thereof, and in all re-  
12 spects comply with the requirements of the statute of the state  
13 relating to elections. The corporate authorities of said city shall  
14 perform all duties in relation to such elections required by gen-  
15 eral law of the county court and officers in effect on the day of  
16 said election and each succeeding election under this charter.  
17 And the provisions of the code in effect on the date of said elec-  
18 tion, concerning elections by the people, shall govern such elec-  
19 tions and be applicable thereto, and the penalties therein pre-  
20 scribed for offenses relating to elections shall be enforced against  
21 the offenders of such corporate elections; and the said act shall  
22 have the same force and effect as if it were specially applicable  
23 in such corporate elections and was by this act re-enacted *in ex-*  
24 *tensio*; except as above modified as to the time in which the re-  
25 turns of the election and canvass thereto shall be made.

Sec. 12. Whenever two or more persons receive an equal  
2 number of votes for mayor, recorder or councilman, such tie shall  
3 be decided by the council in existence at the time the election  
4 is held; *provided*, that the council in office at the time of the  
5 institution of such contest proceeding shall hold over and re-  
6 main in office for the purpose of passing upon and deciding such  
7 contest, and for such purposes only; and nothing herein pro-



8 vided shall be construed to interfere with the duties, power and  
9 authority of the new or incoming council.

Sec. 13. All contested elections shall be heard and determined  
2 by the council in existence at the time the election is held, and  
3 the contest shall be made and conducted in the manner as pro-  
4 vided for in contests for county and district officers, and the  
5 council by their proceedings in such cases shall, as nearly as  
6 practicable, conform with like proceedings of the county court in  
7 such cases.

Sec. 14. Whenever a vacancy from any cause shall occur in  
2 any office, the council shall by a majority vote of those present  
3 fill such vacancy; and, in case of a vacancy in the office of council-  
4 man or mayor, or recorder, the remaining members of the council  
5 shall fill said vacancy.

#### ARTICLE VI.

##### *Appointive Officers—Duties of Officers.*

Sec. 15. The council shall also have authority to provide by  
2 ordinance for the appointment of such other officers as shall be  
3 necessary and proper, to carry into full force and authority the  
4 power, capacity, jurisdiction and duties of said city, which are or  
5 shall be vested therein or in the council, or in the mayor, or any  
6 other officer or body of officers, thereof, and to grant to the offi-  
7 cers so appointed the power necessary or proper for the purpose  
8 above mentioned. The council, by ordinance, shall define the  
9 duties of all officers so appointed, and may provide them a reas-  
10 onable salary, which shall be payable out of the city treasury  
11 which salary shall not be increased or diminished during their  
12 term of office, and shall require and take from all of them whose  
13 duty it shall be to receive its funds, assets or property, or have  
14 charge of the same, such bonds, obligations, or other writing as  
15 they shall deem necessary or proper to insure the faithful per-  
16 formance of their several duties. All officers elected may be re-  
17 moved by the council from office for intemperance, gross im-  
18 morality, gambling, malfeasance or misfeasance in office, or in-  
19 ability or neglect to perform the duties of their respective offices.  
20 Any appointed officer who holds his office at the pleasure of the  
21 council, may be removed from his office for cause, after due no-  
22 tice. The chief of police and any other police officer appointed  
23 by said council, shall have all power, rights and privileges within

24 the corporate limits of said city in regard to the arrest of per-  
25 sons, the collections of claims and the execution and return of  
26 process that can be legally exercised by a constable of a district  
27 within this state; and may without having any warrant or other  
28 process therefor, arrest any person who commits any offense  
29 against the laws of this state or infraction of the ordinances of  
30 said city, in his presence. The chief of police shall be *ex officio*  
31 the keeper of the city jail, and have charge of the city prisoners  
32 confined therein, and may confine any person arrested by him in  
33 the city jail until such time as the charge against such person  
34 can be inquired into by the mayor. Any person confined by the  
35 mayor, for infraction of any of the ordinances of the city, may  
36 pay such fine to either the mayor, the recorder or the chief of  
37 police; and the said chief of police and his sureties shall be liable  
38 for all fines, penalties and forfeitures that a constable of a dis-  
39 trict is liable for in the same court that the said fine, penalties  
40 and forfeitures are now recovered against a district constable.  
41 The chief of police shall also be *ex officio* tax collector of the said  
42 city. For his services as chief of police and tax collector, the  
43 said chief of police shall receive such sum per month as the  
44 council may fix, payable out of the city treasury. The chief of  
45 police shall be appointed to his office by the council. It shall  
46 be his duty as tax collector to collect the city taxes, licenses,  
47 levies, assessments, and other such city claims as are placed in  
48 his hands for collection by the council, and he may distrain and  
49 sell therefor in his manner as a sheriff may distrain and sell for  
50 state taxes; and he shall, in all other respects, have the same  
51 powers, as a sheriff to enforce the payment and collection thereof.

#### ARTICLE VII.

##### *Official Bonds.*

Sec. 16. All bonds, obligations or other writings taken in  
2 pursuance of any provision of this act or under the provisions of  
3 and order of said city, shall be made payable to "The City of  
4 Welch," and the obligors therein and their heirs, executors, ad-  
5 ministrators and assigns bound thereby shall be subject to the same  
6 proceedings on such bonds, obligations or writings for enforcing  
7 the conditions of the terms thereof, by motion or otherwise, be-  
8 fore any court of record or justice of the peace having jurisdic-  
9 tion thereof, held or acting in or for said McDowell county, or

10 any district thereof or elsewhere, that the sheriff or collector of  
11 said county and his sureties are or shall be subject to on his bond  
12 taken for the enforcement of the duties in the payment of the  
13 county levy.

#### ARTICLE VIII.

##### *Oath of Office.*

Sec. 17. The mayor, recorder and councilmen, and all other  
2 officers provided for in this act, shall each, before entering upon  
3 the duties of their offices, and within fifteen days after receiving  
4 their certificates of election or appointment, take the oath or  
5 affirmation prescribed by law for all officers in this state, and  
6 make oath or affirmation that they will truly, faithfully and im-  
7 partially to the best of their ability, discharge the duties of their  
8 respective offices so long as they continue therein. Said oath or  
9 affirmation may be taken before any person authorized to ad-  
10 minister oaths under the laws in force at the time the same is  
11 taken, or before the mayor or recorder of said city; but in any  
12 event a copy of said oath of said officer shall be filed with the  
13 recorder.

#### ARTICLE IX.

##### *Term of Office.*

Sec. 18. The mayor, recorder and councilmen, shall enter  
2 upon the duties of their offices upon the first day of July next  
3 after their election and continue for the period of two years and  
4 all appointed officers shall enter upon the duties of their offices  
5 as soon as they have qualified; and all officers, both elected and  
6 appointed, shall remain in office until their successors are elected  
7 or appointed and qualified, or until removed therefrom in the  
8 manner prescribed by law.

Sec. 19. If any person elected to any office shall not be  
2 eligible thereto under the provisions of this act, or shall fail to  
3 qualify as herein required, the council shall declare his said office  
4 vacant and proceed to fill the vacancy as required by this act.

#### ARTICLE X.

##### *The Mayor.*

Sec. 20. The mayor of the said city shall be chairman of  
2 its council, shall preside at the meeting of the council, and shall

3 also be a conservator of the peace within the said city. He shall  
4 especially see that the orders, by-laws, ordinances, acts and reso-  
5 lutions of the council are faithfully executed. He shall be *ex*  
6 *officio* justice of the peace within the said city and shall, within  
7 the same, have, possess and exercise all the powers and perform  
8 all the duties vested by law in a justice of the peace, except he  
9 shall have no jurisdiction in civil causes of action arising out of  
10 the corporate limits of the city, unless the defendant resides or is  
11 found therein and process therein served upon him. He shall  
12 have the same power to issue attachments in civil suits as a jus-  
13 tice of the peace of his county has; but, in such case, he shall  
14 have no power to try the same, but such attachments shall be  
15 made returnable and heard before a justice of the peace of his  
16 county. Any warrant issued by him, or other process, may be  
17 executed at any place in said county. He shall have control of  
18 the police of said city and may appoint special police officers,  
19 whenever he may deem it necessary, and may suspend any police  
20 officer of the city until the next regular meeting of the council.  
21 And it shall be his duty especially to see that the peace and good  
22 order of the city are preserved, and that persons and property  
23 therein are protected, and to this end he may arrest or cause the  
24 arrest and detention of all violators of the laws of this state and  
25 ordinances of the city, before issuing his warrant therefor, if  
26 the offense is committed in his presence. He shall have power to  
27 issue his warrant for the arrest and apprehension of all persons  
28 violating the ordinances of the city, and shall have power to try  
29 the same and impose upon such violators of the ordinances of  
30 said city such fines and penalties as are prescribed by the ordin-  
31 ances thereof. He shall have the power to issue executions for all  
32 fines, penalties and costs imposed by him, or he may require the  
33 immediate payment thereof, and in default of such payment, he  
34 may commit the party in default to the jail of said county, or  
35 other place of imprisonment used by such corporation, if there  
36 be one, until the fine or penalty and the costs be paid. And in  
37 all case where a person is sentenced to imprisonment or to the  
38 payment of a fine of ten dollars or more (and in no case shall a  
39 judgment for a fine be for less than ten dollars if the defendant,  
40 his agent or attorney object to a less fine being imposed) such  
41 person shall be allowed an appeal from such decision to the crim-  
42 inal court of the county of McDowell, upon the execution of an  
43 appeal bond with security deemed sufficient by said mayor to cover

44 the fine and costs, and the cost in the criminal court in case said  
45 judgment be affirmed, with condition that the person proposing  
46 to appeal, shall make his personal appearance before the criminal  
47 court of McDowell county and will perform and satisfy any judg-  
48 ment which may be rendered against him by the criminal court  
49 on such appeal. If such appeal be taken, the warrant or arrest,  
50 if any, a transcript of the judgment, the appeal bond and other  
51 papers in the case shall be forthwith delivered by the said mayor  
52 to the clerk of said court, and the said court shall proceed to try  
53 the case as upon an indictment or presentment and render such  
54 judgment, including costs, as the law and evidence may require.  
55 The expense of maintaining any person committed to jail as  
56 hereinbefore set forth by the mayor, except it be to answer an  
57 indictment, shall be paid by the said city and taxed as costs  
58 against the defendant. He shall from time to time recommend  
59 to the council such measures as he may deem useful and need-  
60 ful for the welfare of the city. For his services as mayor, he  
61 shall receive the sum of one hundred and twenty dollars per year,  
62 to be paid out of the city treasury in monthly installments and  
63 such fees as may be collected in the trial of cases by him as such  
64 mayor and *ex officio* justice of the peace.

## ARTICLE XI.

*The Recorder.*

Sec. 21. The recorder shall keep an accurate record of all  
2 the proceedings of the council, and shall have charge of and pre-  
3 serve the records of the city. In case of the absence of the mayor  
4 from the city, or his inability from any cause to act, or during  
5 any vacancy in the office of mayor, the recorder shall perform such  
6 duties of the mayor as pertain to the office of mayor, and to that  
7 end, in addition to the other powers herein conferred upon him,  
8 the recorder is hereby vested with all the powers necessary for  
9 the performance of the duties of the mayor, while acting as such,  
10 including the authority of the mayor, pertaining to civil suits.  
11 The recorder shall be *ex officio* assessor of said city, and shall  
12 perform such duties as are imposed by law. He shall be  
13 paid a salary of four hundred and twenty dollars per year, pay-  
14 able in equal monthly installments, for his services as such re-  
15 corder and assessor, to be paid out of the city treasury.

## ARTICLE XII.

*Quorum.*

Sec. 22. The presence of the mayor, or *ex officio* mayor and  
2 three members of said council shall be necessary to constitute a  
3 quorum for the transaction of business at all meetings of the  
4 council of said city.

## ARTICLE XIII.

*Record Books.*

Sec. 23. The council shall cause to be kept by the recorder  
2 in a well bound book to be called the "minute book," an accurate  
3 record of all its proceedings, ordinances, acts, orders and reso-  
4 lutions, and in another to be called "ordinance book," accurate  
5 copies of all general ordinances adopted by the council; both of  
6 which shall be accurately indexed and open to the inspection of  
7 anyone required to pay taxes in the city, or who may be other-  
8 wise interested therein.

9 All oaths and bonds of officers in the city, and all papers of  
10 the council shall be endorsed, filed and securely kept by the re-  
11 corder. The bonds of officers shall be recorded in a well bound  
12 book to be called "record of bonds." The recorder shall perform  
13 such other duties as by ordinance of the council may be pre-  
14 scribed. The transcript of ordinances, acts, orders and resolu-  
15 tions certified by the recorder under the seal of the city shall be  
16 admissible in evidence in any court, or before any justice.

Sec. 24. At each meeting of the council the proceedings of  
2 the last meeting shall be read and corrected, if erroneous, and  
3 signed by the presiding officer for the time being. Upon the call  
4 of any member the ayes and noes on any question shall be taken  
5 and recorded by the recorder in the "minute book." The call  
6 of the members for such vote shall be made alphabetically.

## ARTICLE XIV.

*Tie Vote.*

Sec. 25. The mayor and recorder shall have votes as mem-  
2 bers of the council, and in case of a tie, the presiding officer for  
3 the time being shall have the casting vote, but in no case shall  
4 the presiding officer vote twice on the same proposition.

## ARTICLE XV.

*Meetings of Council.*

Sec. 26. The regular meetings of the council shall be publicly held at such times and at such places in the city as they shall from time to time ordain and appoint; and it shall be lawful for the council by ordinance to vest in any officer of the city, or in any member, or number of members, of its own body, the authority to call special meetings and prescribe the mode in which notice of such special meetings shall be given; if a majority of the members of the council do not attend any regular or special meeting, those in attendance shall have authority to compel the attendance of absent members under such reasonable penalties as they may think proper to impose by ordinance. All questions put to vote, except such matters as hereinafter provided for, shall be decided by a majority of the members present.

## ARTICLE XVI.

*Payment of City Funds.*

Sec. 27. All moneys belonging to the city shall be paid over to the city treasurer; and no money shall be paid out by him except as the same shall have been appropriated by the council, and upon an order signed by the mayor and recorder, and not otherwise, except at the expiration of his term of office upon the order of the council, signed by the mayor and recorder, he shall pay over to his successor all the money remaining in his hands.

## ARTICLE XVII.

*Corporate Powers.*

Sec. 28. The common council of said city shall have, and is hereby granted, power to have said city surveyed; to lay out, open, vacate, straighten, broaden, change grade of, grade, regrade, curb, widen, narrow, repair, pave, and repave streets, alleys, roads, squares, steps, sidewalks, and gutters for public use, and to alter, improve, embellish, and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon, and collect from, the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues roads, alleys, and grounds for public use in said city, and to regulate

13 the use thereof and driving thereon, and to have the same kept  
14 in good order and free from obstruction, pollution or litter on  
15 or over them; to have the right to control all bridges within said  
16 city and the traffic there-over; to change the name of any street,  
17 avenue, or road within said city, and regulate and cause the num-  
18 bering and renumbering of houses on any street, avenue, or road  
19 therein; to provide for and regulate the naming of streets, ave-  
20 nues, and public places; to regulate and determine the width of  
21 streets, sidewalks, roads, and alleys; to order and direct the  
22 curbing, recurbing, paving, repaving and repairing of side-  
23 walks and footways for public use in said city, to be done and  
24 kept clean and in good order by the owners of adjacent prop-  
25 erty; to prohibit and punish the abuse of animals; to restrain  
26 and punish vagrants, mendicants, beggars, tramps, prostitutes,  
27 drunken or disorderly persons within the city, and to provide  
28 for their arrest and manner of punishment; to prohibit by ordin-  
29 ance the bringing into the city any person or animal afflicted with  
30 contagious or infectious diseases and to punish any violater of said  
31 ordinance who knows or has reason to believe such person or ani-  
32 mal to be so afflicted; to control and suppress disorderly houses,  
33 houses of prostitution or ill-fame, houses of assignation, and  
34 gaming houses, or any part thereof, and to punish those engaged  
35 in gaming; to prohibit within said city, or within two miles there-  
36 of, slaughter houses, soap or glue factories, and houses and places  
37 of like kind, and any other thing or business dangerous, unwhole-  
38 some, unhealthy, offensive, indecent, or dangerous to life, health,  
39 peace or property; to provide for the entry into, and the examina-  
40 tion of, all dwellings, lots, yards, enclosures, buildings, and struc-  
41 tures, cars, vehicles of every description, and to ascertain their  
42 condition for health, cleanliness, or safety; to regulate the building  
43 and maintenance of party walls, partition fences or lines, fire walls,  
44 fire places, boilers, smokestacks, and stove pipes; to provide for  
45 and regulate the safe construction, inspection, and repairs of all  
46 public and private buildings, bridges, basements, culverts, sewers,  
47 or other buildings or structures of any description; to take down  
48 and remove, or make safe and secure, any and all buildings,  
49 walls, structures or superstructures at the expense of the own-  
50 ers thereof, that are, or may become, dangerous, or to require  
51 the owners, or their agents, to take down and remove them, or  
52 put them in a safe condition, at their own expense; to regulate,  
53 restrain, or prohibit the erection of wooden or other buildings



54 within the city; to regulate the height, construction, and in-  
55 spection of all new buildings hereafter erected, and the altera-  
56 tion and repair of any buildings already erected, or hereafter  
57 erected in said city, and to require permits to be obtained for  
58 such buildings and structures, and plans and specifications  
59 thereof to be first submitted to the building inspector; to regu-  
60 late the limit within which it shall be lawful to erect any steps,  
61 porticos, bay windows, bow windows, show windows, awnings,  
62 signs, columns, piers, or other projection or structural ornaments  
63 of any kind for the houses or buildings fronting on any street  
64 of said city; to establish fire limits and to provide the kind of  
65 buildings and structures that may be erected therein, and to  
66 enforce all needful rules and regulations to guard against fire  
67 and danger therefrom; to require, regulate, and control the  
68 construction of fire escapes, for any buildings or other structures  
69 in said city; to control the opening and construction of ditches,  
70 drains, sewers, cess-pools, and gutters, and to deepen, widen, and  
71 clear the same of stagnant water or filth, and to prevent obstruc-  
72 tion therein, and to fill, close or abolish the same, and to de-  
73 termine at whose expense the same shall be done; and to build  
74 and maintain fire station houses, crematories, jails, lock-ups, and  
75 other buildings, police stations and police courts, and to regu-  
76 late the management thereof; to acquire, establish, lay-off, ap-  
77 propriate, regulate, maintain, and control public grounds, squares  
78 and parks, hospitals, market houses, city buildings, libraries, and  
79 other educational or charitable institutions, either within or  
80 without the city limits; and when the council determines that  
81 any real estate in or out of the city is necessary to be acquired  
82 by said city for any such purpose, or for any public purpose, or  
83 is necessary in the exercise of its powers herein granted, the  
84 power of eminent domain is hereby conferred upon said city,  
85 and it shall have the right to institute condemnation proceedings  
86 against the owner thereof in the same manner, to the same extent  
87 and upon the same conditions, as such power is conferred upon  
88 public corporations by chapter forty-two of the code of West  
89 Virginia, of the edition of one thousand nine hundred and six,  
90 and as now, or may be hereafter, amended; to purchase, sell,  
91 lease, or contract for, and take care of, all public buildings and  
92 structures and real estate deemed proper for the use of said city;  
93 and for the protection of the public, to cause the removal of un-  
94 safe walls, structures, or buildings, and the filling of excavations;

95 to prevent injury or annoyance to the business of individuals  
96 from anything dangerous, offensive, or unwholesome; to abate,  
97 or cause to be abated, all nuisances, and to that end and there-  
98 about to summon witnesses to bear testimony; to regulate or  
99 prohibit the keeping of gunpowder and other combustible or  
100 dangerous articles; to regulate, restrain, or prohibit the use of  
101 firecrackers or other explosives or fireworks, and all noises or  
102 performances which may be dangerous or annoying to persons,  
103 or tend to frighten horses or other animals; to provide and main-  
104 tain proper places for the burial of the dead, in or out of the  
105 city, and to regulate interments therein upon such terms and  
106 conditions as to price and otherwise as may be determined; to  
107 provide for shade and ornamental trees, shrubbery, grass, flow-  
108 ers, and other ornamentation, and the protection of the same; to  
109 provide for the poor of the city, and to that end may contract  
110 with the proper authorities of McDowell county to keep and main-  
111 tain the poor, or any number thereof, upon terms to be agreed  
112 upon; *provided, however*, that the said city of Welch shall not  
113 keep or maintain the paupers of said city until such time as  
114 the county court of McDowell county shall relieve the said city of  
115 Welch from the payment of all taxes for the support of the  
116 paupers residing outside of the corporate limits of said city;  
117 to make suitable and proper regulations in regard to the use of  
118 the streets, public places, sidewalks, and alleys by street cars, foot  
119 passengers, animals, vehicles, motors, automobiles, traction en-  
120 gines, railroad engines and cars, and to regulate the running and  
121 operation of the same so as to prevent obstruction thereon, en-  
122 croachments thereto, or injury, inconvenience, or annoyance to  
123 the public; to prohibit prize fighting, cock and dog fighting; to  
124 license, tax, regulate, or prohibit theaters, moving pictures, cir-  
125 cuses, the exhibition of showmen, and shows of any kind, and  
126 the exhibition of natural or artificial curiosities, caravans, menag-  
127 eries, and musical exhibitions and performances, and other things  
128 or business on which the state does, or may, exact a license tax;  
129 to organize and maintain paid fire companies and departments,  
130 and to provide necessary apparatus, engines and implements for  
131 the same, and to regulate all matters pertaining to the prevention  
132 and extinguishment of fires; and to make proper regulations for  
133 guarding against danger and damage from fires, water, or other  
134 element, to regulate and control the kind and manner of plumb-  
135 ing and electric wiring, airships, balloons, wireless stations, and

136 other appliances, for the protection of the health and safety of  
137 said city; to levy taxes on persons, property, and licenses; to  
138 license and tax dogs and other animals, and regulate, restrain,  
139 and prohibit them, and all other animals and fowls running at  
140 large and as one means of prevention to provide for impounding  
142 thereof, and upon the failure of the owner to reclaim, to make  
141 or confining such fowls and animals at the expense of the owner  
143 sale thereof; to provide revenue for the city and appropriate the  
144 same to its expenses; to adopt rules for the transaction of business  
145 for its own regulation and government; to promote the general  
146 welfare of the city, and to protect the persons and property of  
147 citizens therein; to regulate and provide for the weighing of  
148 produce and other articles sold in said city, and to regulate the  
149 transportation thereof, and other things through the streets,  
150 alleys, and public places; to have the sole and exclusive right to  
151 grant, refuse, or revoke any and all licenses for the carrying on  
152 of any business within said city on which the state exacts, or  
153 may exact, a license tax; to establish and regulate markets and  
154 to prescribe the time for holding the same, and what shall be  
155 sold in such market, and to let stalls or apartments and regu-  
156 late the same, and to acquire and hold property for market pur-  
156 poses; to regulate the placing of signs, billboards, posters and  
158 advertisements in, or over the streets, alleys, sidewalks, and  
159 public grounds of said city; to preserve and protect the peace,  
160 order, and safety and health of the city and its inhabitants, in-  
161 cluding the right to regulate the sale and use of cocaine, mor-  
162 phine, opium, and poisonous or dangerous drugs, to prohibit the  
162-a carrying of concealed or dangerous weapons within the corpo-  
162-b rate limits of said city; to punish drunkenness; to prevent gam-  
162-c bling; to prohibit anything against good morals and common  
162-d decency, and to fix punishment therefor; to prevent the dese-  
162-e cration of the Sabbath day; to prohibit profane swearing;  
162-f to prohibit the illegal sale of intoxicating drinks, mixtures or  
163 preparations; to appoint and to fix the places of holding city  
164 elections; to erect, own, lease, and authorize or prohibit the  
165 erection of gas works, electric light works, or water works,  
166 in or near the city, and to operate or to regulate the opera-  
167 tion of the same, and sell the products or services thereof, and  
168 to do any and all things necessary and incidental to the conduct  
169 of such business; to require any company or person furnishing  
169-a gas, electricity or water to said city for use of the inhabitants

169-b thereof, to put in standard meters for the measurement thereof,  
169-a gas, electricity or water to said city for use of the inhabitants  
169-c and may appoint an inspector of meters with power to remove  
169-d the same if not standard and in good working order; to pre-  
169-e used or intended to be used by the public or any individual;  
169-f and to require the extension of gas, electric and water lines  
169-g by such respective companies to any and all parts of the city  
169-h when the said council shall deem the same necessary;  
169-i to provide for the purity of water, milk, meats, and pro-  
170 visions offered for sale in said city, and to that end pro-  
171 vide for a system of inspecting the same and making and en-  
172 forcing rules for the regulation of their sale, and to prohibit  
173 the sale of any unwholesome or tainted milk, meats, fish, fruits,  
174 vegetables, or the sale of milk containing water or other things  
175 not constituting a part of pure milk; to provide for inspecting  
176 dairies and slaughter houses, whether in or outside of the city,  
177 where the milk and meat therefrom are offered for sale with  
178 said city, and to prohibit the sale of any article deemed unwhole-  
179 some, and to condemn the same or destroy or abate it as a nuis-  
180 ance; to provide for the regulation of public processions so as to  
181 prevent interference with public traffic, and to promote the good  
182 order of the city; to prescribe and enforce ordinances and rules  
183 for the purpose of protecting the health, property, lives, decency,  
184 morality, cleanliness, and good order of the city and its in-  
185 habitants, and to protect places of divine worship in and about  
186 the premises where held, and to punish violations of all ordi-  
187 nances even if the offenses under and against the same shall also  
188 constitute offense under the law of the state of West Virginia or  
189 the common law; to provide for the employment and safe keep-  
190 ing of persons who may be committed in default of the payment  
191 of fines, penalties, or costs under this act, who are otherwise  
192 unable, or fail, to discharge the same, by putting them to work  
193 for the benefit of the city upon the streets or other places in or  
194 out of the city provided by said city, and to use such means to  
195 prevent their escape while at work as the council may deem ex-  
196 pedient; and the council may fix a reasonable rate per day as  
197 wages to be allowed such person until the fine and costs against  
198 him are thereby discharged; to compel the attendance at public  
199 meetings of the members of the council; to have and exercise such  
200 additional rights, privileges, and powers as are granted to mu-  
201 nicipalities by chapter forty-seven of the code of West Virginia,

202 as amended. For all such purposes, except that of taxation, and  
203 for purposes otherwise limited by this act, the council shall have  
204 jurisdiction, when necessary, for one mile beyond the corporate  
205 limits of said city; to grant and regulate all franchises in,  
205-a upon, over and under the streets, alleys and public ways of  
205-b said city, under such restrictions as are contained herein or  
205-c shall be provided by ordinance, but no exclusive franchise  
205-d shall be granted by said council to any individual or corpora-  
205-e tion, nor shall any franchise be granted for a longer period  
205-f than fifty years; to regulate licenses and restrict the use of  
205-g motor-busses, automobiles, carriages, drays, and wagons, upon  
205-h the streets, alleys and public grounds of said city when same  
205-i are being used for hire and reward.

206 And the council shall have the right to establish, construct,  
207 and maintain public markets on the grounds which does, or shall,  
208 belong to said city, or which it shall acquire, by purchase, or  
209 otherwise, and to sell, lease, repair, alter, or remove any public  
210 markets, or buildings which have been, or shall be, so constructed,  
211 and to preserve and protect the peace and good order at the  
212 same, and regulate the manner in which they shall be used.

213 To carry into effect these enumerated powers and all other  
214 powers conferred upon said city expressly or by implication in  
215 this and other acts of the legislature, the council of said city  
216 shall have the power, in the manner herein prescribed, to adopt  
217 and enforce all needful orders, rules, and ordinances not con-  
218 trary to the laws and constitution of this state; and to prescribe,  
219 impose, and enforce reasonable fines and penalties, including im-  
220 prisonment in the city lock-up, jail, or station-house, and to  
221 work prisoners found guilty as the council may prescribe, and  
222 market the products of such labor, and with the consent of the  
223 county court of McDowell county entered of record shall have the  
224 right to use the jail of said county for any purpose necessary to  
225 the administration of its affairs.

226 The council shall have authority to pass all ordinances not  
227 repugnant to the constitution and laws of the United States  
228 and of this state, which shall be necessary and proper to carry  
229 into full effect the power, authority, capacity and jurisdiction  
230 which is or shall be granted to or vested in the said city, or in  
231 the council or in any officer or body of officers of said city, and  
232 to enforce any and all of the ordinances by reasonable fines and  
233 penalties, and upon the failure to pay any fine or penalty im-

234 posed, may compel the offender to labor without compensation  
235 at and upon any of the public works or improvements under-  
236 taken, or to be undertaken, by said city, or to labor at any work  
237 which the said council may lawfully employ labor upon, at such  
238 reasonable rates per diem as the council may fix, until any fine,  
239 or fines and costs upon any offender by said city have been fully  
240 paid and discharged after deducting reasonable charges of sup-  
241 port while in the custody of the officers of the city; *provided,*  
242 that upon the violation of any ordinance providing the same  
243 penalties inflicted by the state statutes for similar offenses,  
244 then upon conviction and imposition of penalty under such  
245 ordinance, no further prosecution shall be had in any of the  
246 courts of the state for the same offense. And in all cases where  
247 a fine is imposed for an amount exceeding ten dollars and costs,  
248 or a person be imprisoned, or be compelled to labor as afore-  
249 said for a greater term than ten days, an appeal may be taken  
250 from such decision upon the terms and conditions as appeals  
251 are taken from the judgment of a justice of this state. Such  
252 fines and penalties shall be imposed and recovered, and such  
253 imprisonment inflicted and enforced by and under the judg-  
254 ment of the mayor of said city; or in case of his absence or  
255 inability to act, then by any member of the council, to be ap-  
256 pointed by the council for that purpose; and for his services  
257 in trying cases, whether civil, criminal or infractions against  
258 ordinances, the mayor shall be entitled to charge and collect  
259 such fees as are paid to justices of the peace for similar services.  
260 And in all such cases the chief of police, or other officer per-  
261 forming the service shall be entitled to receive such fees as  
262 are paid to constables for similar services; *provided, further,*  
263 that the fee for making any arrest shall be one dollar, whether  
264 such officer be the chief of police or other officer. In addition  
265 to the powers above enumerated, the said city council shall  
266 have power to build, construct, maintain and operate a sufficient  
267 sewerage system and water works, as may be necessary for the  
268 proper supply of water to the inhabitants of the said city, for  
269 both public and private use, and said city shall have the power  
270 to purchase or condemn any water works now in the said city  
271 or hereafter placed therein by any party other than said city,  
272 whenever the council of said city shall deem proper, and such  
273 order shall have been ratified by a vote of the qualified voters

274 of said city, at an election called for that purpose, with due  
275 notice, and at least two-thirds of the votes cast at said election  
276 shall vote for the ratification of said council to purchase or  
277 condemn said water works; and the said city shall have the  
278 power to enlarge the said water works, if so purchased or con-  
279 demned, by putting additional reservoirs either within or out  
280 of said city; and the said city shall have the right, if its council  
281 shall deem proper, and the order of said council be ratified by  
282 a vote as aforesaid, to build, construct, maintain, and operate  
283 such water works in the said city as may be deemed proper  
284 without the purchase or acquisition of any water works then  
285 in said city and said city shall have the right to lay pipes and  
286 mains for the proper distribution of said water, either in or  
287 out of said city, as shall be necessary for the proper distribu-  
288 tion of same, and for that purpose may acquire by lease, pur-  
289 chase or condemnation all such lands as shall be necessary,  
290 either within or without the said city, or they may contract for  
291 such work to be done, in either event to supply an adequate  
292 supply of pure, healthful water for said city, and do all things  
293 necessary to supply of said city and the inhabitants thereof  
294 with water as aforesaid; and the said city may acquire by pur-  
295 chase or condemnation any electric light plant now in said  
296 city or hereafter placed therein by any party other than said  
297 city, and shall have the right to build, construct, maintain, and  
298 operate such plant for furnishing electricity for said city, and  
299 for the inhabitants thereof, but no electric light plant shall be  
300 purchased, condemned, or built or operated unless voted on by  
301 the qualified voters, of said city at an election called and held  
302 as aforesaid, and the same be ratified by a two-thirds vote of  
303 all votes cast at said election.

## ARTICLE XVIII.

*Police Docket.*

Sec. 29. A well bound book, indexed, to be denominated the  
2 "police docket," shall be kept in the office of the mayor, in which  
3 shall be noted each case brought before or tried by him, together  
4 with the proceedings therein, including a statement of the com-  
5 plaint, the warrant or summons, the return, the fact of appearance,  
6 or non-appearance, the defense, the hearing the judgment, the  
7 costs, and in case the judgment be one of conviction the action

8 taken to enforce the same. The record of each case shall be signed  
9 by the mayor, and the original papers thereof, if no appeal be  
10 taken, shall be kept together and preserved in his office.

## ARTICLE XIX.

*Taxation.*

Sec. 30. The council shall be governed in all respects in  
2 laying the annual levy or any additional or special levy by chapter  
3 nine of the acts of the extraordinary session of the legislature of  
4 West Virginia of one thousand nine hundred and eight and by  
5 chapter eighty-five of the acts of the session of the legislature of  
6 one thousand nine hundred and fifteen as the same is amendatory  
7 of certain sections of the said chapter nine of the said acts of  
8 one thousand nine hundred and eight, except that they may in-  
9 clude a poll tax of not exceeding one dollar each year upon each  
10 able bodied man therein, who is above the age of twenty-one years  
11 and not over fifty years of age, which poll tax shall be used ex-  
12 clusively for opening, improving and maintaining roads, streets and  
13 alleys of the city, and shall designate the same as the "street  
14 taxes;" and the said council may also impose such license tax  
15 upon dogs and other animals as they may deem proper, and collect  
16 the same from the owners of such animals, as other taxes are  
17 collected, and prescribe such rules, regulations and penalties  
18 governing the payment of such tax on animals as they may deem  
19 reasonable. And the general annual levy upon the taxable property  
20 within the corporate limits of said city shall not exceed the sum of  
21 thirty-five cents upon each one hundred dollars valuation. But in  
22 addition to said levies above mentioned, and in addition to any  
23 levies provided by the general law, with which these are not  
24 meant to conflict, the council of said city, beginning with the  
25 year one thousand nine hundred and nineteen, are empowered to  
26 and shall lay a special annual levy not to exceed ten cents on each  
27 one hundred dollars valuation of the property in said city for  
28 the purpose of creating a sinking fund with which to pay off the  
29 principal of the present outstanding bonded indebtedness of said  
30 city when the same becomes due and for the purpose of paying  
31 annually, when due, the interest coupons of the said present out-  
32 standing bonded indebtedness of the said city, which said special  
33 levy shall be continued annually by the council for as many years  
34 as may be necessary to pay off said present outstanding bonded



35 indebtedness and the interest coupons that may become due there-  
36 on, but no longer. Also, in addition to the above, the said council,  
37 beginning with the year one thousand nine hundred and nineteen,  
38 are empowered to and shall lay a special annual levy not to ex-  
39 ceed five cents on each one hundred dollars valuation of the  
40 property in the said city for the purpose of paying off any out-  
41 standing orders issued against the treasury of said city prior to  
42 July the first, one thousand nine hundred and eighteen, and for  
43 the purpose of paying off any debts contracted prior to said date  
44 or any judgment taken against the said city prior to said date.  
45 And both of the aforesaid special levies, when collected, shall be  
46 used for no other purposes than for the aforesaid purposes for  
47 which they shall be laid as aforesaid.

ARTICLE XX.

*Assessment and Collection of Taxes.*

Sec. 31. It shall be the duty of the assessor to make an assess-  
2 ment of the property within the city subject to taxation substan-  
3 tially in the manner and form in which assessments are made  
4 by the assessor of the county, and return the same to the council  
5 on or before the first day of June of each year, and for this pur-  
6 pose he shall have all the powers conferred by law upon county  
7 assessors. He shall list the number of dogs and other animals sub-  
8 ject to license tax in the city, and the names of the persons owning  
9 the same, which list shall be returned. In order to aid the asses-  
10 sor in ascertaining the property subject to taxation by said city,  
11 he shall have access to all books and public records of said Mc-  
12 Dowell county, without expense to him or said city, and he shall  
13 have the same power and be subject to the same penalties in ascer-  
14 taining and assessing the property and subjects of taxation of said  
15 city as are granted and imposed on the county assessors throughout  
16 the state by general law; and the council shall have authority to  
17 prescribe by general ordinance, such other rules and regulations  
18 as may be necessary to enable and require such assessor to ascer-  
19 tain and properly assess all property liable to be taxed by said  
20 city, so that such assessment and taxation shall be uniform and  
21 equal, and the council may enforce such rules and regulations by  
22 reasonable fines to be imposed on any one failing to comply there-  
23 with. When he shall complete his assessment book he shall deliver  
24 the same when sworn to, to the city council.

Sec. 32. There shall be a lien on all real estate within the  
2 said city taxes assessed thereon, and for all fines and penalties as-  
3 sessed against or imposed upon the owners thereof, by the au-  
4 thorities of said city, including expenses for making, maintaining  
5 and repairing, paving and macadamizing sidewalks, drains, gut-  
6 ters and streets from the time the same are so assessed or imposed,  
7 which shall have priority over all the other liens except taxes due  
8 the United States and the lien for taxes due the state, county and  
9 district, and such lien may be enforced by the council in the man-  
10 ner provided by law for the enforcement of the lien for county  
11 taxes. And the laws of the state of West Virginia in relation to  
12 delinquent taxes, and the sale of property therefor, are hereby  
13-23 and in all respects adopted as to all proceedings in relation to  
24 taxes for city purposes delinquent in said city. And the powers and  
25 duties conferred by the laws of said state upon county courts and  
26 their clerks and sheriffs in regard to delinquent taxes and their  
27 collection, are hereby in all things conferred upon said city council,  
28 its recorder and other city officials whose duties are of a similar  
29 nature as those of said county officials, in so far as the same may  
30 be directly or by implication applicable in the collection of delin-  
31 quent taxes due said city.

Sec. 33. It shall be the duty of the city tax collector when  
2 the extended copies of the assessor's books are completed, to receive  
3 a copy thereof, receipting to the council for the same, and it shall  
4 be his duty to collect from the parties the entire amount of the  
5 taxes with which they are severally charged therein, and may pro-  
6 ceed to collect the same at any time after the first day of August,  
7 and may enforce the payment thereof by levy upon the personal  
8 property, and sale thereof, of the person charged with taxes at  
9 any time after the first of October, next, after said taxes are as-  
10 sessed. He may also allow a discount of two and one-half per  
11 cent on all taxes paid on or before the thirtieth day of November.  
12 Said taxes shall be a lien upon the property upon which they are  
13 assessed, from and after the time the assessor's books are com-  
14 pleted, verified and returned to the city council, and he shall write  
15 the word "paid" opposite the name of each person who pays the  
16 taxes against him, and shall also give to the person paying such  
17 taxes a receipt therefor; *provided, however*, that said treasurer  
18 may distrain at any time for any taxes assessed against a person  
19 who is about to remove, or who has removed from said city, after

20 such taxes are assessed, and the books returned as aforesaid. He  
21 shall also receive such other moneys of the city as he is authorized  
22 by this act to receive, and also all moneys ordered by the council  
23 to be paid to him, giving receipt therefor to the parties paying the  
24 same, and shall keep an accurate, itemized account of all money  
25 received by him. His books shall, at all times, be open for the  
26 inspection of the mayor, council, city recorder, and to any tax-  
27 payer of the city. He shall also make up monthly statements of  
28 the money received by him and the amount paid out by him and  
29 to whom, showing the amounts in his hands from all sources, and  
30 shall post the same in the mayor's office on the last day of each  
31 month. He shall pay out the money in his hands upon the order  
32 of the city council, upon orders signed by the mayor and the re-  
33 corder. He shall, on or before the expiration of the term of office  
34 of the mayor, and at such other times as the council may require,  
35 present to the council a full and complete statement of all the  
36 moneys with which he is chargeable, or that have been received  
37 by him and not previously accounted for, and shall at the same  
38 time, in like manner, furnish a complete statement, by separate  
39 items, of all disbursements made by him during such period, with  
40 his vouchers evidencing the same. He shall receive all taxes  
41 upon licenses and receipt to the party paying the same, by en-  
42 dorsement upon the permit granted by order of the council, or  
43 mayor as the case may be. He shall, upon the expiration of his  
44 term of office, turn over to the council all books and other prop-  
45 erty in his possession belonging to the city, except the money in  
46 his hands, which he shall turn over to his successor, upon the order  
47 of the council, as hereinbefore provided; and shall, before entering  
48 upon the duties of his office, execute a bond with good security  
49 payable to said city in a penalty of not less than ten thousand  
50 dollars, conditioned that he will faithfully discharge the duties of  
51 his office and account for and pay over as required by law and  
52 the orders, ordinances, rules and regulations of the council of said  
53 city, all money which shall come into his hands, which bonds shall  
54 be subject to the approval of the council. He shall be chargeable  
55 with all the city taxes, levies and assessments and money of the  
56 city which shall come into his hands and shall account therefor.

Sec. 34. In addition to the other duties of the assessor it  
2 shall be his duty on or before the first day of August, in each year,  
3 to make a copy from the real and personal property books pre-

4 pared by him, and to certify such under his hand as a true and  
5 correct copy thereof, and to deliver the same to the council, to  
6 assist said council in preparing the annual estimate of expenses  
7 to be certified as a basis for the annual levy. After such annual  
8 levy is made in each year, it shall be the duty of the assessor to  
9 extend said levy upon said real estate and personal property books  
10 for said city, but the tax collector shall prepare proper tax tickets  
11 therefrom against all owners of real estate and personal property  
12 subject to taxation in said city.

#### ARTICLE XXI.

##### *Licenses.*

Sec. 35. The council shall prescribe by ordinance the time  
2 and manner in which licenses of all kinds shall be applied for  
3 and granted, and shall require the payment of the tax thereon to  
4 the city recorder before the delivery thereof to the person applying  
5 therefor, which tax shall include the same fees for the issuing  
6 of such licenses as are charged for similar services by state and  
7 county officers, which fees shall be paid into the city treasury.  
8 The council may revoke any such license for a breach of any of  
9 the conditions, or for other good cause shown, but the person  
10 holding such license, must first have reasonable notice of the time  
11 and place of hearing and adjudicating the matter, as well as the  
12 cause alleged; and shall be entitled to be heard in person or by  
13 council, in opposition to such revocation. The term for which  
14 licenses provided for in this charter be granted shall be  
15 governed by the general law providing for state licenses.

Section 36. The council shall have the right to institute  
2 and prosecute proceedings in the name of the city for condemna-  
3 tion of real estate for streets, alleys, roads, drains, sewers, market  
4 grounds, city prison, city hall, water works, electric light plant or  
5 other works, or purposes of public utility. Such proceedings  
6 shall conform to the provisions of chapter forty-two of the code  
7 of West Virginia, and the expenses thereof shall be borne by the  
8 city, except in cases where it is proper under said chapter to  
9 charge said expenses or any part thereof against the defendant.

#### ARTICLE XXII.

##### *Bond Issues.*

Sec. 37. The council of the said city shall have the right  
2 to bond the said city for the purpose of paving the said streets,

3 or for other permanent improvements, or for the purpose of taking  
4 up, paying off or refunding any already outstanding city bonds  
5 or items of indebtedness, whenever the council thereof may deem  
6 the same necessary; but the aggregate indebtedness of the said  
7 city for all purposes shall never at any time exceed five *per centum*  
8 of the assessed valuation of the taxable property therein according  
9 to the last assessment next preceding said date. The said council  
10 shall provide a fund for the payment of the interest annually on  
11 the said indebtedness so created, and to pay the principal thereof  
12 within and not exceeding thirty-four years; *provided*, that no  
13 debt shall be contracted hereunder, unless all questions connected  
14 with the same be first submitted to a vote of the qualified voters  
15 of said city, and have received three-fifths of all the votes cast  
16 for and against the same.

## ARTICLE XXIII.

*Indebtedness Prohibited.*

Sec. 38. The council of the said city shall not, at any time,  
2 or for any purpose, create any indebtedness against the said city  
3 except as provided in the next preceding section, exceeding the  
4 available assets of the said city for the current year; and if the  
5 said council shall create such indebtedness or issue orders on the  
6 city for an amount exceeding the amount of money collected for  
7 that year for said city from all sources, and the amount of money  
8 then in the treasury appropriated, the members of said council  
9 shall be severally and jointly liable for the payment of the excess  
10 of such indebtedness or orders over the amount of money appli-  
11 cable thereto, and the same may be recovered in any court having  
12 jurisdiction thereof. Any councilman violating the provisions of  
13 this section shall be deemed guilty of malfeasance in office, and  
14 may be removed as such councilman in pursuance of section fifteen  
15 of this act. *Provided, however*, this shall not be applicable to  
16 such members who have voted against said excess; and, *provided*,  
17 further, that the vote of each member of council shall be recorded.

## ARTICLE XXIV.

*Maintain Roads and Streets.*

Sec. 39. The said city shall construct, conduct and main-  
2 tain its own roads and streets, and by reason thereof shall not be

3 required to pay any district or county road levies for the con-  
4 struction and maintenance of roads outside of the city limits.

ARTICLE XXV.

*Ordinances.*

Sec. 40. All ordinances, by-laws, resolutions and rules of the  
2 town of Welch in force on the day preceding the passage of this  
3 act, which are not inconsistent therewith, shall be and remain  
4 in full force over the whole boundary of said city of Welch, as  
5 established by this act, until the same are amended or repealed  
6 by the council of said city, and the officers elected on the first  
7 Thursday in January, one thousand nine hundred and nineteen,  
8 in the city of Welch, shall remain in office until their successors  
9 under this act are elected and qualified as hereinbefore provided;  
10 and after this act takes effect, shall have jurisdiction over all the  
11 territory embraced in the boundary specified in this act, and shall  
12 perform all the duties of such respective officers under this act;  
13 but nothing in this act shall be construed or held to, in any way,  
14 affect or impair any of the bonds, obligations or indebtedness of  
15 the city of Welch issued or contracted prior to the passage of  
16 this act; but, on the contrary, the said city of Welch shall be  
17 liable for all the bonds, obligations and indebtedness of the city  
18 of Welch as though the same had been created under this charter.

ARTICLE XXVI.

*Streets and Sidewalks.*

Sec. 41. The council shall have power, without petition of the  
2 owners of abutting property, to provide for the grading, con-  
2-a struction, maintenance and repair of sidewalks, drains and  
3 gutters upon the streets of the city, and assess the expense of the  
4 construction, maintenance and repair of the same upon the prop-  
5 erty abutting thereon and the owners thereof, and collect the same  
6 in the same manner as other taxes and levies are collected, and  
7 shall have power, without the petition of the owners of abutting  
7-a property, to grade, macadamize and pave the streets of the said  
8 city, or any of them, and assess part of the expenses of grading,  
9 macadamizing and paving not to exceed one-third thereof upon the  
10 abutting property on each side thereof, and the owners thereof, and  
11 collect the same in the same manner as other taxes and levies are  
12 collected; and such assessments for sidewalks, drains, gutters, mac-

13 adamizing and paving shall be a lien upon such abutting property,  
14 the same as other taxes and levies within said city upon the prop-  
15 erty therein. *Provided*, that nothing herein shall be construed  
16 to prevent the council from arranging for the construction of any  
17 such improvement, by agreement with the abutting property own-  
18 ers, if the council shall so desire and deem it advisable to do so.

Sec. 42. The city council shall have power, upon the  
2 petition in writing of the owners, of the greater amount of  
3 frontage of the lots abutting on any street or alley or between  
4 any two cross streets, or alleys, to provide for the construction  
5 reconstruction, repair and maintenance, of all local improvements  
6 including the grading, paving, sewerage and otherwise perma-  
7 nently improving of streets and alleys of the city, and to provide  
8 for the assessment of the cost thereof, including all incidental  
9 expenses and the cost of intersections of streets, with interest  
10 payable annually, against the abutting or other specially bene-  
11 fitted properties, according to their frontages, on each side of  
12 such streets or alleys, and against the owners thereof, upon the  
13 following conditions:

14 (a) *Plan and Resolution.* The city council, when deemed ex-  
15 pedient by it, shall cause plans, specifications, profiles and  
16 estimates of the proposed improvements by grading, paving,  
17 curbing, sewerage or otherwise locally improving any streets or  
18 alleys, to be made and filed in the office of the mayor, and shall  
19 by ordinance and resolution prescribe generally the location and  
20 character of the proposed improvement and refer to such plans,  
21 specifications, profiles and estimates.

22 (b) *Notice and hearing.* The city council shall then  
23 cause notice thereof to be published once in some newspaper  
24 published in said city, fixing the date for a hearing thereon not  
25 less than one week after the adoption of such resolution. At  
26 the date stated in such resolution and notice, or at any ad-  
27 journed meeting, the city council shall hear objections to the  
28 proposed improvement and may correct, amend or modify such  
29 plans, specifications, profiles and estimates, not extending such  
30 improvement to any other street or part of street, and may pass  
31 or adopt a resolution or ordinance providing for such improve-  
32 ment, by direct employment of labor or by contract with the lowest  
33 responsible bidder, and for the assessment of the cost thereof  
34 against the abutting or specially benefitted properties on each  
35 side of such street or alley.

36 (c) *Assessment, docketing and payment.* The city council  
37 shall, by resolution or ordinance, levy the assessment of the ap-  
38 proved estimate of the cost of such improvement, including in-  
39 cidental expenses and intersections, upon the abutting or other  
40 specially benefited properties and against the owners thereof, in  
41 proportion to the frontages of such properties, designating the  
42 same by numbers, names of owners or other convenient descrip-  
43 tion; and shall also assess against any street car or other railway  
44 company the cost of the improvement of the space between the  
45 rails of its track or tracks and two feet additional outside each  
46 rail (unless otherwise provided in the franchise therefor); which  
47 assessments shall be liens upon the respective properties and upon  
48 the tracks and franchises of such company for the distance of  
49 the improvement thereon, and said liens shall have priority over  
50 all other liens except taxes due the state. The said assessment  
51 shall be payable fifteen days after the levying thereof, unless the  
52 owners of such properties may elect to pay the same in ten annual  
53 installments as hereinafter provided; and, within thirty days  
54 after the levying thereof, the city recorder shall cause a memo-  
55 randum of all unpaid assessments to be made, showing the names  
56 of the owners of such properties, descriptions of the properties,  
57 and the amounts of the assessments, respectively, and shall file  
58 the same in the office of the clerk of the county court of Mc-  
59 Dowell county for record in the deed of trust books therein;  
60 such assessments, after said period of thirty days, and before re-  
61 cordation of such memorandum, shall not be liens as against pur-  
62 chasers of such property for value and without notice. Upon  
63 payment thereof, releases shall be executed and recorded in the  
64 manner provided by law.

65 (d) *Collateral bonds.* The city council shall, at the option of the  
66 owners or owners of such properties, permit payment of one-tenth  
67 of the amount assessed against them, respectively, within said  
68 fifteen days, and issue and sell its notes or bonds, without vote of  
69 the electors of the city, in anticipation of the payment of such  
70 special assessments in annual installments as follows: One-tenth  
71 of such amount with interest on said one-tenth, at six *per cent*  
72 *per annum*, payable annually, in one year from the date of the  
73 levying of such assessment, and a like one-tenth, with interest as  
74 aforesaid, at the expiration of each succeeding year until the  
75 whole amount shall have been paid.



76       (e) *Method of improvement.* The city council shall, after  
77 levying and collecting assessments and issuing its notes and  
78 bonds as foresaid, proceed with such local improvements accord-  
79 ing to the said approved plans, specifications, profiles, and shall  
80 pay the cost thereof out of the special assessment fund accruing  
81 from such payment and the sale of its notes or bonds. *Provided,*  
82 that the assessment against any such street car or other railway  
83 company shall be deducted from the cost to be paid by the owners  
84 of the abutting lots.

85       (f) *Rebates or further assessments.* Upon the completion  
86 of any improvement, any excess above the actual cost of the im-  
87 provement shall be refunded to the owners of properties on the  
88 basis on which assessed, and in the event of a deficit in the  
89 assessment fund, the city council may by ordinance lay a sup-  
90 plementary assessment on the basis of the actual cost, which shall  
91 be made and collected as provided in the case of the original  
92 assessments for the improvement.

93       (g) *Gas and water lines.* The city council, before making  
94 any such local improvements, shall compel any person, firm or  
95 corporation having gas, water, telephone, street car or other public  
96 utility equipment on, in or under such street or alley under fran-  
97 chises therefor, to be moved, renewed, lowered or raised, and  
98 the gas or water lines or connections to be extended from the  
99 mains to the abutting properties, as directed, within ten days after  
100 notice so to do; and shall also cause the owners of properties  
101 abutting on said street or alley to install sewer connections at  
102 their expense, within ten days after notice so to do; and if the  
103 same be not done within said time, the work may be done by the  
104 city, and the cost thereof, with a penalty of ten *per cent* of the  
105 cost, assessed against the owners of such franchises and against  
106 the said properties, respectively, for which such connections are  
107 made, which assessments shall be liens and may be collected as  
108 other taxes.

109       (h) *Damages to improvements.* Whenever any street or  
110 alley of the city, or any part thereof, shall have been graded,  
111 sewered, or otherwise permanently improved by order of the city  
112 council, pursuant to the authority conferred on them by this sec-  
113 tion, by providing for an assessment of a part of the cost thereof,  
114 as provided by this section, against abutting property and the  
115 owners thereof, it shall not be within the power of the said city  
116 council to thus charge the said property of the owners thereof,

117 with any part of the cost of regrading, re-paving, re-sewering or  
118 again permanently improving such street or alley until after  
119 fifteen years from the completion of such grading, paving, sewer-  
120 ing or otherwise permanently improving thereof. The city council  
121 shall, by ordinance provide for the protection, preservation and  
122 use of any such local improvements and shall prescribe fines and  
123 penalties for damages or injuries thereto, for which the person  
124 or company causing such injury shall be liable; and no owner or  
125 owners of abutting properties shall be compelled to pay subsequent  
126 special assessments for the reconstruction, repair and mainte-  
127 nance of any curb, pavement, sewer or other local improvement,  
128 so injured or damaged by any other person or corporation in  
129 violation of such ordinance.

130 (i) The city council shall have power to pass and adopt  
131 ordinances not inconsistent with the constitution and laws of this  
132 state, for the purpose of carrying out the provisions of this  
133 section.

Sec. 43. The council of the city of Welch shall provide places  
2 for voting in each ward in all municipal elections of the city, and  
3 appoint commissioners residing therein to hold and conduct the  
4 election hereinbefore provided to be held, and shall pass all proper  
5 ordinances to give this act full force and effect. *Provided*, that  
6 the council may consolidate the voting places of two or more wards,  
7 if in its opinion no inconvenience is placed upon the voters in  
8 the respective wards.

Sec. 44. The city attorney shall be the legal ad-  
2 viser of the city and all of its officers in all matters arising, and  
3 in which legal proceedings may be taken; he shall prosecute all  
4 suits, actions and proceedings instituted on behalf of said city,  
5 and defend all suits and actions against said city, and when re-  
6 quested in writing shall give his written opinion to the mayor  
7 or council or any standing committee thereto upon such legal  
8 questions as may be referred to him affecting the city's interest;  
9 he shall perform such other duties as may be required. It shall  
10 be his duty to attend the sessions of the council when requested and  
11 prosecute all trials before said mayor and all appeals that are  
12 taken from such mayor to the criminal or circuit court, and for  
13 his services he shall receive such compensation as the council shall  
14 provide, and in addition thereto in all criminal prosecutions con-  
15 ducted by said city attorney, where there is a conviction of the

16 defendant, there shall be taxed an attorney's fee in favor of said  
17 city attorney, not less than five nor more than ten dollars, which  
18 said fee shall be taxed as a part of the costs of the case.

Sec. 45. The council shall designate some bank in the city  
2 of Welch to act as treasurer, in which bank all moneys shall be  
3 deposited. If no bank in the said city of Welch is willing to act  
4 as such treasurer, then the council of the city of Welch shall ap-  
5 point a city treasurer, prescribe his duties and provide compensa-  
6 tion not to exceed the sum of three hundred dollars per year, pay-  
7 able in equal monthly installments.

Sec. 46. Each councilman of said city shall receive from  
2 the city to be paid out of the city treasury the sum of one hun-  
3 dred and sixty dollars a year, payable in monthly installments,  
4 and there shall be deducted from the salary of the mayor, recorder  
5 and councilman two dollars for each time either of said officers  
6 shall be absent from a regular meeting of said council, unless  
7 such absence be caused by sickness or absence from the city.

#### ARTICLE XXVII.

##### *Board of Health.*

Sec. 47. The council shall appoint a suitable person, who  
2 shall be a practicing physician, as health commissioner, whose  
3 term of office shall be one year and until his successor is appointed  
4 and qualified. The mayor, health commissioner and city attorney  
5 are hereby constituted and shall be a city board of health. The  
6 board of health shall do and perform all such duties and exercise  
7 such powers as may be required of or conferred upon it by legal  
8 ordinances of said city. The board of health shall have the power  
9 to summon witnesses, hear testimony and to do any and all other  
10 things necessary and proper in the performance of its duties under  
11 this act and under the general laws of the state in such case made  
12 and provided.

#### ARTICLE XXVIII.

##### *Nuisances.*

Sec. 48. The council of said city shall have authority to  
2 abate and remove all nuisances in said city. It may compel the  
3 owners, agents, assignees, occupants, or tenants of any lot,  
4 premises, property, building, or structure upon, or in which any

5 nuisance may be, to abate and remove the same by orders therefor,  
6 and by ordinance provide a penalty for the violation of such  
7 orders.

8 Said council may also by its own officers, appointees, and em-  
9 ployees abate and remove nuisances, including all obstructions on  
10 the streets and alleys of said city. It may by ordinance regulate  
11 the location, construction, repair, use, emptying, and cleaning of  
12 all water closets, privies, cess-pools, sinks, plumbing, drains, yards,  
13 lots, area ways, pens, stables, and other places where offensive, un-  
14 sightly, unwholesome, objectionable, or dangerous substances or  
15 liquids are, or may, accumulate, and provide suitable penalties for  
16 violations of such regulations, which may be enforced against the  
17 owner, agent, assignee, occupant, or tenant of any premises or  
18 structure where such violation may occur.

19 If the owner, agent, tenant, assignee, or occupant of any  
20 such premises, lot, property, building, or structure, as is men-  
21 tioned herein, shall fail or refuse to abate or remove any such  
22 nuisance as mentioned herein, or to comply with the provisions  
23 of any such ordinance and the regulations herein contained,  
24 the said council may have said nuisance abated or the provisions  
25 of said ordinance, or ordinances, carried out, after reasonable  
26 notice to said owner, occupant, tenant, agent or assignee, of its  
27 intention so to do, and collect the expenses thereof, with one  
28 per centum per month interest added from the date of said  
29 notice, from the said owner, occupant tenant, agent, or assignee,  
30 by distress or sale, in the same manner in which taxes levied  
31 upon real estate for the benefit of said city are herein author-  
32 ized to be collected, and the expense shall remain a lien upon  
33 said lot, or part of lot, the same as taxes levied upon real estate  
34 in said city; which lien may be enforced by a suit in equity  
35 before any court having jurisdiction, as other liens against real  
36 estate are enforced. In case of nonresident owners of real estate,  
37 such notice may be served upon any tenant, occupant, assignee,  
38 or rental agent, or by publication thereof once a week for not  
39 less than two consecutive weeks in some newspaper of general  
40 circulation in said city.

41 And in all cases where any tenant, occupant, or agent is re-  
42 quired to abate and remove any nuisance under the provisions  
43 of this section, or comply with the provisions of any such ordi-  
44 nance as is mentioned herein, the expense thereof may be de-

45 ducted out of the accruing, or accrued, rent of said property,  
46 or amount due said owner from said agent, and such tenant,  
47 occupant, or agent may recover the amount so paid from the  
48 owner, unless otherwise especially agreed upon.

49 Any expense incurred by the council, as herein provided,  
50 in the manner aforesaid, may be collected in the manner herein  
51 provided, notwithstanding the imposition of any other penalty  
52 or penalties upon any of the persons named herein, under any  
53 of the provisions of this act. The abatement or removal of any  
54 such nuisance by the council, at the expense of said city, as  
55 herein provided, shall be *prima facie* proof that the said notice  
56 to the owner, occupant, tenant, agent, or assignee was given as  
57 herein prescribed.

Sec. 49. The council may require all owners, tenants, or  
2 occupants of improved property which may be located upon or  
3 near any street or alley along which may extend any sewer or  
4 system of sewerage, which the said city may construct, own, or  
5 control, to connect with such sewer or system of sewerage, all  
6 privies, ponds, water closets, cess-pools, drains, or sinks located  
7 upon their respective properties or premises so that their con-  
8 tents may be made to empty into such sewer or system of sewer-  
9 age, and shall have the right to charge a reasonable amount for  
10 the right to connect to such sewer.

## ARTICLE XXIX.

### *Franchises.*

Sec. 50. Franchises shall be granted by the council, allowing  
2 to persons or corporations, for a limited time such occupancy of  
3 portions of the street as may be necessary for works of public  
4 utility and service, such as steam railway tracks, street railway  
5 tracks, poles and trolley wires, telephone and telegraph poles and  
6 subways, electric light and other electric poles, wires and sub-  
7 ways, and gas and steam pipe lines, water, water lines and pipes.  
8 But no such franchise shall hereafter be granted except under  
9 the following restrictions:

10 (1) No ordinance, granting any franchise for the use of  
11 the streets, alleys or public grounds for the town for any of the  
12 purposes of public utility above named, or for any other pur-  
13 pose of like nature, shall be passed unless it shall have been first  
14 proposed in the council, and notice of the object, nature and ex-  
15 tent of the franchise shall have been published at least thirty days

16 by the applicant, in some newspaper of general circulation in the  
17 city of Welch, before being acted upon, and shall have received  
18 a vote of the majority of the members of the council at a regular  
19 meeting after said publication. The votes thereon shall be taken  
20 by ayes and noes, and the same entered upon the journal.

21 (2) Every grant of any such franchise shall be for a  
22 limited period of time. If no limit be expressly provided in the  
23 grant, the franchise shall be valid for one year only. In no case  
24 shall the franchise extend for a period exceeding fifty years.

25 (3) No grant of any such franchise shall be made without,  
26 at the time of making it, providing that the grantee shall in-  
27 demnify the city against all damages caused by the construction  
28 of such work. All reasonable additional provisions and condi-  
29 tions may be made for the protection of the public from unneces-  
30 sary damage or inconvenience by reason of such works and the  
31 operation thereof.

32 (4) No grant of a franchise or the extension of, or an ad-  
33 dition to, any line of such work, over any additional street or  
34 territory of the city, shall be made for a period extending beyond  
35 the time limited for the expiration of the franchise of the prin-  
36 cipal work of which it is an extension; and if the franchise of  
37 the principal company or work is one which was granted before  
38 this act goes into effect, and is not limited as to time, the fran-  
39 chise granted for the extension or addition shall nevertheless be  
40 made subject to the conditions hereof, including a time limit of  
41 not exceeding fifty years. If a franchise be secured from the  
42 city by an individual or by an independent or new company, and  
43 the work constructed thereunder afterwards becomes a part of  
44 it, or be operated as a part of a larger work of the same kind  
45 whose franchise was previously obtained and is limited to ex-  
46 pire earlier, such later franchise shall, by reason of such annexa-  
47 tion, merger, or single operation, expire simultaneously with such  
48 earlier franchise.

Sec. 51. All ordinances of the town of Welch, as they exist  
2 at the time of the passage of this act, which are inconsistent  
3 therewith, are hereby abrogated, and all acts and parts of acts  
4 inconsistent with any of the provisions of this act are hereby  
5 repealed.

## ENGROSSED

**House Bill No. 7**

A BILL to amend and re-enact section two of chapter seven of the acts of the legislature of West Virginia, one thousand nine hundred and seventeen, relating to the protection of sheep, the conservation of food supply for the maintenance of the people, and tagging and taxing dogs.

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter seven of the acts of the legislature of West Virginia, one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 2. The county court of every county and the council of every municipality, shall prepare and deliver to its assessor, sheriff, constables or other police officers, consecutively numbered substantial aluminum or brass tags, bearing the calendar year and the name of the county or municipality issuing such tag, which shall be delivered by them to any citizen of the county or municipality who may apply therefor and pay into its treasury a fee of not more than twenty-five cents for each tag, which tags

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9 shall be fastened upon the collars worn by the dogs owned or kept by such citizens, and for which such officer shall issue a receipt showing the name and address of the citizen and the year and number of the tag. Such officer shall also keep a record book showing the name and address of each citizen to whom such tags are issued, the number of such tag so issued and the year thereof.

Any American-born or naturalized citizen may own a dog or dogs by paying annually to the officer in charge of the tags the sum of one dollar for each male dog, or three dollars for each female dog so owned or kept about their premises, and the county court is hereby authorized to employ as many officers as may be necessary to collect the money, deliver the tags, and dispose of all dogs kept in violation of this act, and pay out to the county treasury a reasonable sum for the assessment of dogs, collection of taxes and disposing of all dogs that may be kept in violation of this act.

Any citizen may, and the sheriff, constables or other police officers of any county, district or municipality, shall seize any dog found unaccompanied by its owner or keeper and running at large on any road, street or other public place, or trespassing on any

28 premises other than the premises of the owner. If such dog is  
29 wearing a collar bearing such tag, it shall be impounded and the  
30 citizen or officer so seizing and impounding said dog shall imme-  
31diately thereafter by written notice notify the owner of such dog  
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32 as disclosed by the records herein provided for to be kept that  
33 such dog has been seized and impounded by him and unless such  
34 owner or keeper of such dog shall, within seven days from the re-  
35 ceipt of said notice, claim such dog, and pay such citizen or officer  
36 a fee of two dollars for seizing, and a fee of ten cents for each  
37 day it is impounded, it shall be killed forthwith in any humane  
38 manner. *Provided*, that any citizen or officer may kill any dan-  
39 gerous or vicious dog, or any dog not registered as herein pro-  
40 vided for, or any dog permitted to run at large after the owner  
41 or keeper shall have had notice not to permit such dog to run at  
42large, if such dog be off the premises and out of the control of its  
43 owner or keeper. No citizen or officer shall be liable in damages  
44 or to prosecution by reason of killing any dog as herein provided.  
45 For every dog seized and not claimed by its owner or keeper as  
46 aforesaid, the county court shall pay the citizen or officer entitled  
47 thereto said fees and costs upon due proof of the seizure, im-  
48 pounding and killing of such dog; and the owner or keeper shall  
49 be liable therefor in any action before the court or justice having  
50 jurisdiction; *provided, further*, that it shall be the duty of the  
51 common council of every incorporated city, town or village in this  
52 state, to provide a suitable pound for such dog or dogs so seized  
53 under the provisions of this act.

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## House Bill No. 58

Introduced January 14, 1919. Referred to the Committee on Immigration and Agriculture. January 22, reported back with the recommendation that it do pass. January 23, coming up in regular order for consideration, was read a first time and ordered to its second reading.

A BILL providing for the protection of sheep and other property; listing, taxing and assessing dogs as personal property.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That all dogs in the state of West Virginia, over



2 the age of four months, shall be listed by the assessor as personal  
3 property, and placed in the personal property list, and that there  
4 shall be a per capita tax of one dollar assessed to the owner of  
5 one dog, two dollars and fifty cents on the owner of two dogs,  
6 and for each dog in excess of two dogs, five dollars. Said per  
7 capita tax shall be collected and receipted for by the assessor at  
8 the same time the dog or dogs are listed. The said assessor shall  
9 have five per cent of all such moneys by him collected. In ad-  
10 dition to the per capita tax, all dogs in this state shall be valued  
11 as all other personal property; the value may be stated by the  
12 owner, and if not considered too high by the assessor, the same  
13 shall be placed on the assessor's books as the valuation of said  
14 property, and the owner shall pay the same rate of taxes as on  
15 his other property.

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Sec. 2. The county court shall provide the assessor with  
3 dog, upon which the per capita taxes have been paid, free of charge.  
2 suitable collar tags, which shall be furnished the owner of any  
4 It shall be unlawful for any person to injure, maim or kill any  
5 dog upon which the taxes have been paid, and so indicated by the  
6 tag having been placed upon the collar. If said tag has been re-  
7 moved, it shall be sufficient evidence if the owner prove that said  
8 taxes have been paid, and upon his oath states that the dog or  
9 dogs, when last seen by him bore such tag. *Provided*, any dog  
10 found or seen worrying, chasing or killing any sheep or other  
11 property, without the consent of the owner of such property, said  
12 dog may be killed by any person and such person who may kill  
13 any such dog or dogs shall not be liable in damages therefor,

Sec. 3. All moneys accruing from the per capita tax upon  
2 the dogs of the state, together with all fines that are hereinafter  
3 provided for, shall create a fund that shall be kept as a separate  
4 account from all other taxes. All taxes accruing from the levy  
5 shall be collected by the sheriff or his deputies in the same manner  
6 as all other taxes. The county court shall appoint an officer (the  
7 constable of the district may be eligible) in each magisterial dis-  
8 trict of their respective counties, whose duty it shall be to collect  
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9 all delinquent taxes, said court shall require such bond as they  
10 may deem sufficient, such officer shall be known as the collector  
11 of the delinquent dog tax, and shall receive such pay for his serv-  
12 ices as the court may deem to be just and right, not to exceed the

13 amount by him collected, and he shall have power to levy on any  
14 property that he may find in the owner's possession, including  
15 the dog or dogs, for the payment of the same, when the owner of  
16 any dog or dogs shall fail or refuse to pay the tax imposed, and it  
17 shall be the duty of such officer to sell such dog or dogs under  
18 such execution or to otherwise dispose of the same in any humane  
19 manner.

Sec. 4. Any person whose sheep or other property have been  
2 killed or injured by any dog or dogs may report the same, within  
3 forty-eight hours after such worrying or killing, to any justice of  
4 the county in which the sheep shall have been killed or worried,  
5 whereupon the justice shall proceed to summon a jury of three free-  
6 holders, which jury after having been duly sworn shall go at once  
7 to the place where the sheep or other property have been killed or  
8 worried, and shall determine as to how the sheep or other prop-  
9 erty came to their death or injury, if possible, and if found to  
10 have been done by a dog or dogs, they shall proceed to assess the

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11 damage done the owner of such property, and shall make a report  
12 of same, setting forth the number of sheep killed or injured, and  
13 such other details as may be necessary for a clear understanding of  
14 the damage allowed, which reports shall be delivered to the clerk  
15 of the county court. If the county court find such report to be  
16 correct, they shall issue an order for same, which shall be paid  
17 out of the fund accruing from said dog tax.

Sec. 5. Any person who keeps about his premises, or in any  
2 way harbors any dog known to have worried or killed, or that is  
3 in the habit of going after sheep of his own accord, and without  
4 his owner's consent, shall be guilty of a misdemeanor, and shall  
5 be fined not less than ten nor more than twenty dollars for each  
6 offense, and each day he so keeps such animal shall be considered  
8 five dollars for each day he so harbors or keeps such dog.

7 a separate offense. And in addition to said fine, he shall pay

Sec. 6. Any owner of any dog or dogs who, after having  
2 made due effort to collect damage as hereinafter provided, whose  
3 dog has been unlawfully killed, and is protected under this act,  
4 may apply to the county court, and upon sufficient evidence being  
5 produced, they shall allow such damage to the owner as may in  
6 their judgment be a reasonable damage, which shall be paid out

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7 of the aforesaid fund.

Sec. 7. Any person who shall wolfully or maliciously kill,  
2 maim or cripple any dog under the protection of this act, whether  
3 on or off the owner's premises, shall be guilty of a misdemeanor and  
4 shall be amenable to the law governing like offenses against any  
5 other property, and may be tried before any justice or other person  
6 having jurisdiction, and in addition to any fine that may be im-  
7 posed, he shall pay to the owner of any dog so killed the amount  
8 of his assessed value, if not found excessive. *Provided*, any  
9 persn owning a "run-about-dog" that is habitually trespassing on  
10 the property of another, near or about his home, said property  
11 owner may, after having given the owner, if known, a written  
12 notice of his intention so to do, impound any such dog, and the  
13 owner of said dog before obtaining said dog shall pay to the person  
14 so impounding a fee of one dollar, and in addition he shall pay  
15 twenty-five cents for each day the dog shall have been so im-  
16 pounded. Any owner of any such dog refusing to pay the afore-  
17 said charges shall lose all claims to the dog, and the person so im-  
18 pounding shall have the right to dispose of him in any way he  
19 may deem best, and it shall no longer come under the protection  
20 of this act.

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Sec. 8. All witnesses, jurymen and all other necessary ex-  
2 penses in carrying out this act shall be paid out of the special  
3 fund accruing from the dog tax herein provided. Jurymen who  
4 are appointed to assess the damages as herein provided shall have  
5 for each day actually employed the sum of one dollar and seventy-  
6 five cents. Witnesses who are summoned to give evidence in any  
7 way, the sum of one dollar and fifty cents per day.

Sec. 9. The sheriff shall on or before the fifteenth day of  
2 January of each year pay any balance that may be left over after  
3 having paid all claims against said special fund (which shall be  
4 known as the "dog fund") to the state road commission, which  
5 shall be by them deposited in the state road fund, and shall be  
6 apportioned and paid out by them in the manner as all other state  
7 road funds.

Sec. 10. The fact that any dog is kept or allowed to remain  
2 about any house shall be deemed sufficient to authorize the as-  
3 sessor to return the person inhabiting said house as the owner of  
4 any such dog.

Sec. 11. No female dog shall be allowed to run at large or  
2 be exposed to public view while in heat, and any owner, or other

3 person having any female dog in their possession violating this  
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4 provision of this act shall be fined not less than ten nor more than  
5 twenty-five dollars. All dogs shall be kept confined at night, either  
6 by chain and collar or enclosed in their kennel, except such times  
7 as their owners may have use for them in the chase or otherwise.

Sec. 12. Any officer whose duty it is to enforce this act and  
2 refusing or neglecting so to do, shall be guilty of dereliction of  
3 duty in office, and shall be fined not less than one hundred nor  
4 more than five hundred dollars, and in the discretion of the trial  
5 court may be imprisoned from one to ten days.

Sec. 13. All acts or parts of acts inconsistent herewith are  
2 hereby repealed.

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### ENGROSSED

## House Bill No. 52

A BILL to amend and re-enact sections two, three and four of chapter  
one hundred and fifty-seven, of the code of West Virginia, relat-  
ing to grand juries.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three and four of chapter one hundred and fifty-  
seven of the code of West Virginia, be amended and re-enacted to read  
as follows:

Section 2. The jury commissioners appointed under the pro-  
2 visions of section three of chapter one hundred and sixteen of the  
3 code, shall select and draw persons for grand juries. Said com-  
4 missioners shall, at the levy term of the county court each year, and  
5 at any other time when required by the court which appointed  
6 them, or the judge thereof in vacation, prepare a list of not less  
7 than one hundred nor more than two hundred qualified persons of  
8 their county, for grand jury service, chosen from the respective  
9 magisterial districts thereof, as near as may be in proportion to the

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10 population of the districts. The lists so prepared shall be sub-  
11 mitted to the clerk of the court, or the judge thereof when required,  
12 and the name of any person who is not qualified shall be stricken  
13 from the list by the clerk or judge. The persons so listed shall be  
14 men of good moral character, and who have never been convicted  
15 of a felony or of any scandalous offense; and shall be bona fide

16 citizens of the state and county for at least one year immediately  
17 preceding the preparation of the list, and shall not be office holders  
18 under the laws of the United States or of this state.

19-20 At the time such jury list is made up the jury commissioners  
21 shall cause all the names thereon to be written each on a separate  
22 ballot, and shall fold, roll or prepare same so as to resemble each  
23 other as near as may be, and so that the name written thereon shall  
24 not be visible on the outside, and shall enclose the ballots for each  
25 magisterial district in a separate envelope endorsed with the name  
26 of the magisterial district and the number of ballots enclosed, and  
27 shall deposit all the ballots, with the list, in a secure box to be pre-  
28 pared for the purpose, which shall be delivered to and safely kept  
29 by the clerk of the circuit court, and shall be opened only by the  
30 jury commissioners or by order of the judge of the court having  
31 control thereof.

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Sec. 3. The clerk of the circuit court or other court requiring  
2 a grand jury shall, at least thirty days before the term of court,  
3 summon the jury commissioners to attend at his office at a day  
4 specified, which shall not be less than twenty days before such  
5 term, and select men for the grand jury, but the court, or judge  
6 thereof, may require said jury commissioners to appear forthwith,  
7 or at any specified time, and select grand jurors for either a regu-  
8 lar or special term of court. On the day appointed the said jury  
9 commissioners shall appear and draw the names of sixteen persons  
10 from the grand jury box, and the persons so drawn shall constitute  
11 the grand jury. If when drawing the ballots it shall appear to the  
12 commissioners that any person so drawn is dead, or for any reason  
13 disqualified or unable to serve, they shall destroy the ballot and  
14 cancel the name on the list and draw another in his stead. They  
15 shall enter the names of all persons so drawn in a book kept for  
16 that purpose and deliver a list thereof to the clerk who shall issue  
17 a summons for said grand jurors directed to the sheriff of the coun-  
18 ty requiring him to summon them to appear on the day required  
19 and serve as grand jurors. The provisions of chapter one hun-  
20 dred and sixteen relating to the drawing and summoning of petit  
21 jurors and drawing ballots and cancellation and making thereof,

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22 so far as applicable and not inconsistent with the provisions of this  
23 act, shall be observed and govern the selection of a grand jury, ex-  
24 cept that the ballots shall be drawn from the several envelopes in

25 proportion as near as may be to the numbers endorsed thereon, but  
26 so that at least one ballot shall be drawn from each envelope.

Sec. 4. Any fifteen or more of the grand jurors attending  
2 shall be a competent grand jury. If a sufficient number of quali-  
3 fied jurors do not attend, the court shall appoint two bona fide  
4 citizens of the county, of opposite politics, having all of the quali-  
5 fications of jury commissioners, who, after taking the oath re-  
6 quired of jury commissioners, shall select from the persons present  
7 the number of qualified persons necessary to complete the grand  
8 jury, for which services the persons so appointed shall be allowed  
9 the sum of two dollars each to be certified by the court to the coun-  
10 ty court for payment.

11 All acts or parts of acts inconsistent with this act are hereby  
12 repealed.

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## House Bill No. 123

AN ACT to provide for a special bridge levy.

*Be it enacted by the Legislature of West Virginia:*

That the county court of any county having no debt, bonded or funded or otherwise, may lay a levy in addition to the maximum levy and other special levies provided for, not exceeding fifteen cents on each one hundred dollars of valuation on the taxable property of the country, to be called a special bridge levy, for the purpose of building and repairing bridges, on Class "A" and Class "B" roads and the fund arising from such bridge levy shall be used for that purpose and no other, provided that the court shall not be authorized to lay such levy until the same shall have first been approved in writing by the state tax commissioner and the state road commissioner and made a matter of record by said court. All plans and specifications for such bridges shall be approved by the state road commission as well as the contract awarding the construction thereof.

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## House Bill No. 226

AN ACT to fix the salary of the judges of the circuit courts of the several circuits.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That from and after the first day of July, one thousand nine hundred and nineteen, each of the judges of the three circuit courts shall receive an annual salary of five thousand four hundred (\$5,000.00) dollars, payable monthly out of the treasury.

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ENGROSSED

## House Bill No. 238

A BILL to prohibit corporations created under the laws of the state of West Virginia and corporations duly incorporated under the laws of any other state or territory of the United States or District of Columbia or any foreign country authorized under the laws of this state to hold property or to transact business in this state from prosecuting suits or actions, either now pending or hereafter instituted against like corporations in any court of any other state or territory of the United States or District of Columbia or any foreign country when the cause of such suit or action arose in the state of West Virginia, or when such suit or action involves the title to, or possession or right of possession of real estate situate in the state of West Virginia; providing penalties for the violation of this act, and providing for injunction to inhibit the prosecution of such suits.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any corporation, created under the laws of this state or any corporation duly incorporated under the laws of any other state or territory of the United States or District of Columbia or any foreign country authorized under the laws of this state to hold property or to transact business in this state, to prosecute a suit or action, either now pending and undetermined or hereafter instituted, in any court of any other state or territory of the United States or District of Columbia or any foreign country, without the consent of the defendant in writing, against any other corporation likewise created under the laws of this state or any corporation duly incorporated in any other state or territory of the United States or District of Columbia or any foreign country authorized under the laws of this state to hold property or to transact busi-

14 ness in this state when the cause of such suit or action arose in  
15 this state or when such suit or action involves the title to, or  
16 possession or right of possession of real estate situate in this  
17 state; *provided, however* that the provisions of this act, except as  
17-a to the right to an injunction as hereinafter set out, shall not  
17-b apply to any such suit or action now pending unless the de-  
17-c fendant therein shall give to the plaintiff therein notice in  
17-d writing that it refuses to give such consent, and until the ex-  
17-e piration of thirty days after each notice is so given.

18 Any corporation knowingly violating the foregoing provisions  
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19 of this act or refusing to obey any injunction awarded under  
20 section two hereof shall forfeit its charter and corporate franchise  
21 or right to hold property and to transact business in this state  
22 and in addition thereto shall, if incorporated under the laws of  
23 this state, forfeit to the defendant corporation so sued a sum of  
24 money equal to the amount so sued for, or equal to the value of  
25 property involved in such suit or action and every such defendant  
26 corporation may recover such sum of money in an action of  
27 assumpsit instituted in any court of this state having jurisdic-  
28 tion thereof.

Sec. 2. Any corporation, such as is mentioned in section  
2 one hereof, which is defendant in any suit or action as is men-  
3 tioned in section one hereof, now pending or that may be here-  
4 after instituted, may apply to the circuit court of any county in  
5 this state in which the cause of action or any part thereof in-  
5-a volved in such suit or action arose, or in which the land or  
5-b part thereof, the title to or possession or right of possession is  
5-c involved in such suit or action, is situated, or to the judge of  
6 such court in vacation, for an injunction, inhibiting and re-  
7 straining such plaintiff corporation from prosecuting any such  
8 suit or action in any other state or territory of the United States

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9 or District of Columbia or foreign country and if it appear that  
10 any such suit or action has been instituted or is being prosecuted  
11 in violation of this act, said circuit court, or the judge thereof  
12 in vacation shall enter an order inhibiting and restraining the  
13 prosecution of any such suit or action and may enforce such  
14 order by fine or such other remedy as is afforded by the laws of  
15 this state, and in addition thereto may, for a violation of such



16 order, enter a judgment forfeiting the charter and corporate  
17 franchises, or the right to hold property and to transact busi-  
18 ness in this state of the corporation violating such order.

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ENGROSSED

## House Bill No. 14

A BILL to amend and re-enact section eight-a of chapter one hundred and fifty of Barnes' code of West Virginia, of one thousand nine hundred and sixteen, relating to physicians and surgeons, and examination and qualification of same, and setting forth who are deemed practitioners.

*Be it Enacted by the Legislature of West Virginia:*

Section 8-a. The public health council, consisting of the commissioner of health and six other members as specified in section three of this act, shall, in addition to the duties hereinbefore or hereinafter specified, examine all applicants for license for the practice of medicine and surgery in this state, and issue certificates of license to all applicants who are legally entitled to receive same; and said certificates of license shall be signed by the president of the council and by the commisisoner of health as secretary thereof. The examination of applicants and the issuing of certificates of license thereto shall be governed by sections nine, ten and eleven of chapter one hundred and fifty of the code of West Virginia, and the

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12 words "state board of health," wherever used in said section, shall  
13 mean public health council, as established by this act. The term  
14 "practice of medicine and surgery" as used by this act shall be  
15 construed to be treatment of any human ailment or infirmity by  
16 any method; *provided*, that those who confine their efforts at heal-  
17 ing to prayer in accordance to the tenets of an established church  
18 shall not be deemed to be engaged in the "practice of medicine and  
19 surgery," but all such persons shall report to the local health office  
20 authorities all contagious and infectious diseases, with which they  
21 may come in contact while confining their efforts at healing to  
22 prayer as above set forth. To open an office for such purpose or to  
23 announce to the public in any way a readiness to treat the sick or  
24 afflicted, shall be deemed to engage in the practice of medicine and  
25 surgery within the meaning of this act; provided, this clause shall

26 not apply, however, to regularly registered optometrists, or those  
27 who confine their efforts at healing to prayer as provided in this  
28 section.

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## House Bill No. 100

AN ACT authorizing the board of education of the independent school district of Wheeling to purchase, equip and maintain a piece of ground for the purpose of physical education.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of the independent school district of Wheeling is hereby authorized to purchase, equip and maintain a piece of ground, not to exceed in quantity more than ten (10) acres, either within the limits of the city of Wheeling, or without the same, to be used for the purpose of physical education of the students of the public schools of said city, and if the owner or owners of the piece of ground selected by said board for said purposes refuse to sell said land so selected, or demand an unreasonable price therefor, or if the owner is *non compos mentis*, a minor, or a non-resident, the board of education may petition the circuit court to have such land condemned, and such proceedings shall thereupon be had in the name of such board for the condemnation thereof, as are provided for in chapter forty-two of the code of West Virginia.

Sec. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

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## House Bill No. 277

AN ACT relating to interest on high school bonds of Washington district, Pleasants county, West Virginia.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Pleasants county is hereby authorized and directed to refund to the sheriff of said county all the interest accrued to the county treasury from July first, one

4 thousand nine hundred and seventeen, until this act becomes  
5 effective, upon the total amount which was credited by said county  
6 court, since the said first day of July, to the high school bond  
7 fund of Washington district of the said county, and the said  
8 sheriff shall place the amount of the said interest to the credit of  
9 the high school bond fund of the said district.

Sec. 2. All interest accruing on the said high school bond  
2 fund shall, from the passage of this act, be credited by the said  
3 sheriff to the high school bond fund of Washington district.

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## House Bill No. 196

AN ACT to fix the salary of the prosecuting attorney of Barbour  
county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the salary of the office of prosecuting at-  
2 torney of Barbour county be and the same is hereby fixed at the  
3 sum of \$1,800.00 per year.

Sec. 2. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

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## House Bill No. 221

AN ACT to amend and re-enact section twenty-six of chapter sixty-  
six of the acts of the legislature of one thousand nine hundred  
and seventeen, relating to a special levy for permanent road  
improvement for Calhoun county.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Calhoun county, upon peti-  
2 tion of twenty per cent of the voters voting at the last general  
3 election, is hereby authorized to lay a levy each year, in addition  
4 to all other levies allowed by law, not exceeding twenty-five cents  
5 on each one hundred dollars of all taxable property of the county  
6 for the year the levy is laid, to be called a special road levy for  
7 the purpose of permanently improving the roads of said county

8 as hereafter set forth (permanently improving main class "a"  
9 roads). All moneys raised by said levies shall be expended as  
10 hereafter set forth: one-half of said fund to be spent in the  
11 magisterial districts of Sheridan, Center and Sherman, the re-  
12 maining one-half to be expended in Lee and Washington dis-  
13 tricts; all to be expended on class "a" roads, beginning at two  
14 stated points: First, at the corporation line of the town of  
15 Grantsville, thence to the Wirt county line; second, beginning at  
16 the corporation line of Grantsville to the Lee district line; third,  
17 beginning at the Roane county line on the Glenville, Ripley and  
18 Ohio turnpike, commonly known as the Arnoldsburg and Spencer  
19 pike; thence with said pike to the Sherman district line, con-  
20 necting with the Grantsville road; thence from the mouth of  
21 Millstone up the West Fork to the terminal of class "a" road.  
22 All moneys raised by said levy shall be used only for road pur-  
23 poses, as set forth, and for the purpose of building bridges in  
24 said roads. After the completion of the above described roads, the  
25 county court may at its discretion expend the money raised from  
26 year to year, as set forth for the improvement of class "a" roads,  
27 in the said magisterial districts.

Sec. 2. Said roads or turnpikes shall be permanently im-  
2 proved by said county court of Calhoun county in such manner as  
3 is set forth. All moneys realized from said special levy shall be  
4 placed in a separate fund, and separate accounts shall be kept by  
5 said court of the receipts and expenditures of the same, setting  
6 forth clearly the sum received by said special levy, and the manner  
7 in which the same was expended.

Sec. 3. The fund arising from said road levy shall be used  
2 for no other purpose than for the one above designated, except to  
3 build bridges where necessary in building said described roads.

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## House Bill No. 288

AN ACT to amend and re-enact section six of chapter fifty-two of  
Barnes' code of one thousand nine hundred and eighteen.

*Be it enacted by the Legislature of West Virginia:*

That section six of chapter fifty-two of Barnes' code of one thou-

sand nine hundred and eighteen be amended and re-enacted to read as follows:

Section 6. The land acquired by condemnation by any company incorporated for a work of internal improvement along its line generally, shall not exceed one hundred feet in width, except in deep cuts and fillings, and then only so much more shall be acquired as may be reasonably necessary therefor; the land which it may acquire for buildings or for an abutment along its line generally, shall not exceed three acres in any one parcel; and the land which it may acquire for buildings or other purposes of the company at the principal termini of its work, or at any place or places within five miles of such termini, shall not exceed fifteen acres in any one parcel, but in the case of a railroad company, an amount of land not exceeding one hundred acres in any one parcel may be acquired for its main depots, machine shops, termini, and other necessary purposes connected with the business of said company.

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## House Bill No. 302

AN ACT to fix the salary of the prosecuting attorney of Wyoming county, and fixing the time and manner of the payment of the same; and also providing for the appointment of an assistant prosecuting attorney of said county and fixing the salary of such assistant; and repealing all acts and parts of acts inconsistent with this act.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Wyoming county, West Virginia, shall allow and pay to the prosecuting attorney thereof, out of the treasury of said county, an annual salary of not less than one thousand eight hundred dollars and not exceeding two thousand four hundred dollars, which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

Sec. 2. The prosecuting attorney of said county may designate, and by and with the advice and consent of the said county court, appoint some competent attorney as assistant prosecuting attorney of said county, and said county court may, in its discre-

5 tion pay such assistant prosecuting attorney such reasonable  
6 salary for his services as such assistant as said court may deem  
7 proper, but such salary shall not exceed the sum of one thousand  
8 two hundred dollars per annum. Such salary shall be paid to  
9 said assistant monthly, out of the county treasury, and in the  
10 same manner as the salary of other county officers is paid. Such  
11 assistant shall take the same oath and perform the same duties  
12 required by law of his principal. He may be removed from office  
13 at the will of his principal, or for misconduct or neglect of duty.  
14 In case such assistant shall be removed, the vacancy may be filled  
15 as herein provided for his appointment. It shall always be dis-  
16 cretionary with said county court whether such assistant is ap-  
17 pointed, and it may at any time, by an order entered of record,  
18 stop the payment of the salary of such assistant.

19 All acts and parts of acts inconsistent with this act are  
20 hereby repealed.

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## House Bill No. 203

AN ACT empowering, authorizing and requiring the county court of Marion county to accept a grant or devise of suitable land and buildings situate within the corporate limits of the city of Fairmont, for a home for poor, indigent and dependent white children of said county; to properly equip, maintain and conduct the same as such home, determine as to the children to be admitted thereto, there maintain such children, adopt and enforce rules and regulations necessary for the conduct of such home, select, employ and pay all competent persons necessary for the conduct thereof; accept endowments, transfers, donations and gifts of real estate, rents and income from real estate, cash, stocks, bonds and other personal estate and property, interest, dividends and income from cash, stocks, bonds and other personal estate and property, for aiding in the maintenance and conduct of such home, and to provide by levy any funds required therefor in excess of those secured through endowments, transfers, donations and gifts, and expend such, as well as that received from such endowments, transfers, donations and gifts, so far as required, in the maintenance, conduct and continuation of such home, including the payment of salaries and wages of the persons employed therefor.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of the county of Marion  
2 (in this state), a body politic, be and is fully authorized and em-  
3 powered, as well as required, to accept from any person possessing  
4 the same by fee simple title and desiring to grant the same to it,  
5 a grant or devise of land with buildings already erected thereon  
6 situate within the corporate limits of the city of Fairmont, in said  
7 county of Marion, for a home for the shelter, care and maintenance  
8 of poor, indigent and dependent children whose parents are, at  
9 the time of their admission to such home, citizens and residents of  
10 the said county of Marion. And the fact that such grant or devise  
11 may contain conditions, restrictions and requirements based upon  
12 the provisions, or any of them, of this act, shall not constitute  
13 objection or impediment to said county court accepting such grant  
14 or devise.

Sec. 2. That said county court be and is fully authorized  
2 and empowered, as well as required, on becoming vested with title  
3 to said land and buildings, to fully and properly equip the same as  
4 and for such home; and to perpetually maintain, continue, conduct  
5 and carry on the same as such home for such children, and thereat  
6 and therein properly maintain, keep, feed, clothe, nurse and in  
7 every way, manner and respect care for such poor, indigent and  
8 dependent children who are there provided with home and housed  
9 and kept; and to provide, at all times, a sufficient number of com-  
10 petent and suitable trained persons to properly conduct, continue  
11 and carry on such home.

Sec. 3. Said county court shall have authority and power  
2 from time to time, to select, hire and appoint all nurses, teachers  
3 and other agents necessary and required for the said home, to fix  
4 the salaries and wages of such and provide for and make payment  
5 thereof, and to adopt, promulgate and enforce reasonable and  
6 proper rules and regulations for the conduct of such home.

Sec. 4. Said county court shall at all times have and exer-  
2 cise full and complete supervision, management and control of  
3 said land and buildings, and said home and the children thereat  
4 and therein, as well as over said nurses, teachers and agents; and  
5 shall at all times keep said buildings and grounds in proper  
6 condition.

Sec. 5. The children to be admitted to such home and  
2 there kept and maintained shall be of the white or Caucasian race,  
3 and may be of any age under fifteen years, and their admission

4 shall be determined by said county court, and they shall be permitted to remain there until of such age as said county court shall determine before discharging them therefrom; but if because of incorrigibility or other good and sufficient cause said county court shall determine that it is for the best interest of said home that any child be discharged therefrom at an earlier period, it shall have power and authority to so cause the discharge of such child.

Sec. 6. The children admitted to such home shall have the most humane treatment, nursing, nurturing, care and attention, and shall be given and have opportunity to secure education along all practical lines, including domestic science and domestic art, and shall be at all times surrounded with christian influence and environments.

Sec. 7. Said county court shall have authority to accept any and all endowments, transfers, donations and gifts which may be made to it of real estate, rents and income from real estate, cash, stocks, bonds and other personal estate and property, interest, dividends and income from cash, stocks, bonds and other personal estate and property, for the purpose of aiding in the maintenance, conduct, continuation and carrying on of such home as by this act required; and shall expend the same therein and therefor as such may be required from time to time. And it shall be the duty of said county court, and it shall have authority and power, to fully provide, at all times, the moneys necessary and required to maintain, conduct, continue and carry on such home and provide for the said children as by this act required; and any moneys required therein and for such purposes in excess of the moneys secured by it through such endowments, transfers, donations and gifts aforesaid, the said county court shall have power and authority to raise each year by direct levy in the same manner as other levies for county purposes, and the same shall be expended and applied in and for such purposes.

Sec. 8. This act shall be in effect from date of passage.

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## House Bill No. 9

AN ACT to amend chapter fifty-five-a of the code of West Virginia, relating to fraternal beneficiary societies by adding sections thirty-three, thirty-four, thirty-five, and thirty-six thereto.



*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-five-a of the code of West Virginia, relating to fraternal beneficiary societies, be amended by adding sections thirty-three, thirty-four, thirty-five and thirty-six, to read as follows:

Section 33. *Fraternal Insurance—Children Insurance*—That  
2 any beneficiary association organized under the laws of this state  
3 or doing business in this state, may issue certificates for the pay-  
4 ment of sick, death or annuity benefits upon the lives of children  
5 between the ages of one and eighteen years who have been ex-  
6 amined and approved in accordance with the laws of such asso-  
7 ciation, provided that the application for such a benefit certificate  
8 shall be made by a parent or guardian of such child or some person  
9 upon whom such child is dependent for support. When such child  
10 shall arrive at the age permitting personal application for insur-  
11 ance under the laws of such association, the certificate issued under  
12 this provision may be exchanged for any other form of certificate  
13 issued by the association, such exchange to be in accordance with  
14 the constitution, laws and regulations of such association. The  
15 free designation of a beneficiary in such exchange being left to  
16 such child.

Sec. 34. *When Permitted*—That such association shall not  
2 issue any such benefit certificate until after it shall have simul-  
3 taneously put in force at least five hundred such certificates on  
4 each of which, at least one assessment has been paid; nor where  
5 the number of lives represented by such certificate falls below five  
6 hundred.

Sec. 35. *Basis of Rates*—That the net beneficiary assessment  
2 collected upon such certificate shall be based upon the standard  
3 industrial table of mortality now adopted by the state of New York  
4 and interest at the rate of three and one-half per centum per  
5 annum, or upon a higher standard. The funds so collected shall  
6 be kept as separate and distinct funds and shall not be liable nor  
7 used for the payment of debts and obligations of the association  
8 other than the benefits herein authorized.

Sec. 36. *Benefits Allowed*—That death benefits shall be made  
2 to increase with advancing age but shall not exceed the sum  
3 specified in the following table, the age therein specified being  
4 the ages at the time of death:

5     Between the ages of two and three years, thirty-four dollars;  
6     Between the ages of three and four years, forty dollars;

- 7 Between the ages of four and five years, forty-eight dollars;  
8 Between the ages of five and six years, fifty-eight dollars;  
9 Between the ages of six and seven years, one hundred and  
10 forty dollars;  
11 Between the ages of seven and eight years, one hundred and  
12 sixty-eight dollars;  
13 Between the ages of eight and nine years, two hundred  
14 dollars;  
15 Between the ages of nine and ten years, two hundred and  
16 forty dollars;  
17 Between the ages of ten and eleven years, three hundred  
18 dollars;  
19 Between the ages of eleven and twelve years, three hundred  
20 and eighty dollars;  
21 Between the ages of twelve and thirteen years, four hundred  
22 and sixty dollars;  
23 Between the ages of thirteen and sixteen years, five hundred  
24 and twenty dollars;  
25 Between the ages of sixteen and seventeen years, six hundred  
26 and twelve dollars;  
27 Between the ages of seventeen and eighteen years, seven hun-  
28 dred dollars;  
29 All acts and parts of acts in conflict herewith are hereby  
30 repealed.

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## House Bill No. 281

AN ACT amending and re-enacting chapter ninety-two of the acts of the regular session of the legislature of one thousand nine hundred and seventeen and section twenty-four of chapter one hundred and twelve-a of the code of West Virginia, one thousand nine hundred and sixteen, fixing the number of terms and time for holding the circuit court in each of the counties composing the twenty-first circuit of the state.

*Be it enacted by the Legislature of West Virginia:*

That chapter ninety-two of the acts of the regular session of the legislature of one thousand nine hundred and seventeen and section twenty-four of chapter one hundred and twelve-a of the code of West

Virginia, one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 24. That there shall be held in each year at least three terms of the circuit court in and for the county of Braxton in said judicial circuit so created, and that there shall be held in each year at least four terms of the circuit court in and for the county of Nicholas in said judicial circuit so created, and the terms of the circuit court of the counties of Braxton and Nicholas in said judicial circuit shall commence and be held as follows:

For the county of Braxton on the third Monday in March, the second Monday in July and the third Monday in November.

For the county of Nicholas on the third Monday in January, on the second Monday in April, on the third Monday in August, and the third Monday in October.

All acts and parts of acts inconsistent herewith are hereby repealed.



**HOUSE BILLS**  
**EXTRAORDINARY SESSION**



## EXTRAORDINARY SESSION 1919

### House Bill No. 2

AN ACT authorizing the board of education of Grant district, Wetzel county, West Virginia, to lay a special levy for the years one thousand nine hundred and nineteen and one thousand nine hundred and twenty, for the purpose of securing sufficient funds to finish the construction of public school buildings in said district.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of education of Grant district, Wetzel county, West Virginia, is hereby authorized in the years one thousand nine hundred and nineteen and one thousand nine hundred and twenty, to lay a special levy not to exceed thirty cents on the one hundred dollars valuation of all property situate in said district, to pay for the completion of public school buildings in Grant district, Wetzel county, West Virginia, now in the course of construction.

Sec. 2. Such levies shall be assessed and collected as otherwise provided by law and the proceeds of the same shall be used for the purpose set forth in section one of this act, and for no other.

### House Bill No. 3

AN ACT to levy a privilege tax on any person, firm or corporation engaged in the transportation of crude oil or petroleum, or the distillates thereof, or of natural gas, by means of pipe lines, authorizing the state tax commissioner to provide rules and regulations for the collection of such tax, and defining the duties of the state tax commissioner hereunder.

*Be it enacted by the Legislature of West Virginia:*

Section 1. No person, firm or corporation, hereinafter called company, after the first day of July, one thousand nine hundred

3 and nineteen, shall engage in or continue in the business of the  
4 transportation of crude oil or petroleum, or the distillates thereof,  
5 or of natural gas, by means of pipe lines, without the payment of  
6 an annual privilege tax hereby imposed for engaging in such busi-  
7 ness; *provided, however*, that nothing contained in this act shall  
8 apply to any person, firm or corporation engaged in the business  
9 aforesaid where the crude oil, petroleum or distillates thereof, or  
10 natural gas, is by the entire system of such person, firm or cor-  
11 poration, transported a distance of less than ten miles.

Sec. 2. Every person, firm and corporation engaged in this  
2 state in the transportation of either crude oil or petroleum, or the  
3 products and distillates thereof, or of natural gas, or both, by  
4 means of pipe lines for sale to consumers within or without the  
5 state, or use within or without the state in the making of any  
6 products derived therefrom, shall pay to the state, as an annual  
7 privilege tax for engaging in such business in the state, two cents  
8 for each barrel of crude oil or petroleum, or the distillates thereof,  
9 and one-third of one cent for each thousand cubic feet of such  
10 natural gas as is so transported or conveyed within this state. *Pro-*  
11 *vided*, that only one such tax, annually, shall be required to be so  
12 paid.

Sec. 3. Every person, firm or corporation liable to tax im-  
2 posed by this act, shall, within sixty days after the first day of  
3 July, one thousand nine hundred and nineteen, and within sixty  
4 days after the first day of July in each year thereafter, deliver to  
5 the state tax commissioner a return in writing showing the quan-  
6 tity of crude oil or petroleum, or the distillates thereof, or of natu-  
7 ral gas transported or conveyed within this state during the fiscal  
8 year ending on the first day of July next preceding. Such return  
9 shall be signed and sworn to by the person making the same for  
10 himself or a partnership, and by the president, vice-president or  
11 other principal accounting officer making the same for a corpora-  
12 tion, which return shall be in the form prescribed by the state tax  
13 commissioner. The state tax commissioner is hereby invested with  
14 full power and authority and it is hereby made his duty to pre-  
15 scribe forms for returns and assessments and to make, issue and  
16 put in force all necessary and needful rules and regulations for  
17 ascertaining and assessing the tax hereby imposed upon every  
18 company.

Sec. 4. The state tax commissioner shall ascertain and assess  
2 the tax upon the company making a return, and shall notify it of



3 the amount of such tax by notice deposited in the postoffice ad-  
4 dressed to such company at its principal office or place of business.  
5 Such ascertainment of the tax shall be final and conclusive, unless  
6 the same be appealed from in the manner following, within thirty  
7 days after such notice is so deposited. If any company fail or  
8 refuse to make return, the state tax commissioner shall proceed, in  
9 such manner as may be proper, to obtain the facts and information  
10 required to be furnished by such return; and to this end he may,  
11 by himself or his duly appointed agent, make examination of the  
12 books, records and papers of any such company, and may take the  
13 evidence, on oath, of any person who he may believe shall be in  
14 possession of facts or information pertinent to the subject of in-  
15 quiry, which oath he or the agent so appointed by him may admin-  
16 ister. As soon as possible after procuring such information as he  
17 may be able to do with respect to any company failing or refusing  
18 to make a return, the state tax commissioner shall proceed to as-  
19 certain and assess the tax upon such company, and shall notify it  
20 of the amount thereof as hereinbefore provided. And his act shall  
21 be final as to any company which refused to make a return.

Sec. 5. If any company, making a return as provided  
2 by this act, feels aggrieved by the assessment so made upon it for  
3 any year by the state tax commissioner, it may apply to the board  
4 of public works by petition in writing, within thirty days after  
5 the notice is deposited as provided in the preceding section, for  
6 a hearing and a correction of the amount of the tax so assessed  
7 upon it by the state tax commissioner, in which petition shall be  
8 set forth the reasons why such hearing should be granted and the  
9 amount such tax should be reduced. The board shall promptly  
10 consider such petition, and may grant such hearing or deny the  
11 same. If denied, the petitioner shall be forthwith notified thereof;  
12 if granted, the board shall notify the petitioner of the time and  
13 place fixed for such hearing. After such hearing the board may  
14 make such order in the matter as may appear to them just and  
15 lawful, and shall furnish a copy of such order to the petitioner.

Sec. 6. No injunction shall be awarded by any court or judge  
2 to restrain the collection of all or any part of the taxes imposed  
3 and assessed under this act, except upon the ground that the as-  
4 sessment thereof was in violation of the constitution of the United  
5 States, or of this state; or, that the same were fraudulently as-  
6 sessed; or that there was a mistake made in the amount of taxes  
7 assessed; and in case of mistake no such injunction shall be

8 awarded, unless application shall be first made to the board of  
9 public works to correct the alleged mistake, and the board shall  
10 refuse to do so, which fact shall be stated in the bill, or unless the  
11 complainant pay into the treasury of the state all taxes appearing  
12 by the bill of complaint to be owing.

Sec. 7. Every company so assessed with taxes shall pay the  
2 same into the state treasury within sixty days after the date of  
3 the mailing of the notice of the amount thereof, or within thirty  
4 days after notification of the amount thereof, when ascertained  
5 and assessed by the board of public works on appeal. All taxes  
6 assessed under provisions of this act against any such company  
7 shall constitute a debt to the state, and may be collected by action  
8 of assumpsit or appropriate judicial proceeding, which remedy  
9 shall be in addition to all other existing remedies for the collec-  
10 tion of taxes. It shall be the duty of the state tax commissioner  
11 to proceed to collect such taxes with a penalty of ten per centum  
12 added thereto, if not paid when due. At the time of paying the  
13 taxes the state tax commissioner shall issue to the company paying  
14 the same a certificate of payment for the proper fiscal year.

Sec. 8. Any person required or authorized by law to make,  
2 sign or verify any return by this act, who makes any false or  
3 fraudulent return or statement with intent to defraud the state  
4 or defeat or evade the payment of the tax, or any part thereof,  
5 imposed by this act, shall be guilty of a misdemeanor, and upon  
6 conviction thereof, shall be fined not less than one hundred dollars,  
7 nor more than five thousand dollars, to which fine shall be added  
8 the costs of prosecution.

Sec. 9. Any company engaging or continuing in the business  
2 aforesaid without having first secured a license, as hereinbefore  
3 provided, shall be liable to a fine of not less than one thousand  
4 dollars nor more than ten thousand dollars.

Sec. 10. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

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## House Bill No. 18

AN ACT to provide additional revenue for the state of West Virginia  
by imposing an additional excise tax and to repeal sections three  
and four of chapter six of the acts of the legislature of one thou-  
sand nine hundred and seventeen, second extraordinary session.

*Be it enacted by the Legislature of West Virginia:*

Section 1. In addition to the tax imposed by section five  
2 of chapter three of the acts of the legislature of one thousand  
3 nine hundred and fifteen, second extraordinary session, every  
4 corporation, joint stock company, or association organized for  
5 profit, and having a capital stock represented by shares, and  
6 every insurance company, respectively, now or hereafter organ-  
6-a ized under the laws of this state or under the laws of any  
7 other state or government and engaged in any business what-  
8 soever in the state of West Virginia, shall pay an annual  
9 special excise tax for the privilege of carrying on or doing busi-  
10 ness in the state of West Virginia equivalent to one-fourth  
11 of one per centum upon the entire net income of such com-  
12 pany, received by it from all sources during the year, on  
13 business transacted and capital invested in this state, as herein-  
14 after set forth; *provided, however,* that nothing in this section  
15 contained shall apply to labor, agricultural or horticultural or-  
16 ganizations; nor to mutual savings banks not having a capital  
17 stock represented by shares and which are operated exclusively for  
18 the benefit of their depositors; nor to cemetery companies, which  
19 are organized and operated exclusively for the benefit of their  
20 members; nor to fraternal beneficiary societies, orders or associa-  
21 tions operating under the lodge system, or for the exclusive benefit  
22 of the members of a fraternity itself operating under the lodge  
23 system, and providing for the payment of life, sick, accident, and  
24 other benefits to the members of such societies, orders or associa-  
25 tions, and dependents of such members; nor to domestic building  
26 and loan associations organized and operated exclusively for the  
27 benefit of their members; nor to any corporation or association or-  
28 ganized and operated exclusively for religious, charitable, scientific  
29 or educational purposes; nor to business leagues, chambers of com-  
30 merce, or boards of trade, or to any civic league or organization  
31 organized and operated exclusively for the promotion of social  
32 welfare, none of which said organizations, savings banks, cemetery  
33 companies, fraternal beneficiary societies or fraternities, building  
34 and loan associations, charitable, religious, scientific or educa-  
35 tional associations, business leagues, chambers of commerce, boards  
36 of trade or civic leagues named in this proviso, are organized for  
37 profit, and no part of the net income of which inures to any private  
38 stockholder or individual.

Sec. 2. The tax imposed by section one of this act shall be

2 levied for the state fiscal year one thousand nine hundred and  
3 nineteen, and succeeding years, and shall be computed, levied,  
4 assessed, collected and paid upon the same basis and in the same  
5 manner as the tax imposed by section five of chapter three of the  
6 acts of the legislature of one thousand nine hundred and fifteen,  
7 second extraordinary session.

Sec. 3. That sections three and four of chapter six of the  
2 acts of the legislature of one thousand nine hundred and seven-  
3 teen, second extraordinary session, be, and the same are hereby  
4 repealed.

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## House Bill No. 19

AN ACT to provide for the renewal of professional teachers' certificates, and fixing the fees and condition of payment therefor.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The fee for the renewal of a professional teachers' certificate shall be five dollars. The fee for the renewal of a short course certificate shall be one dollar, said certificate to be renewable for one three-year period and said fee payable upon proof that the holder of such certificate has taught or been otherwise actively engaged in school work for two years of the preceding three-year period; and, *provided, further*, that service in the United States army or navy in the war with Germany shall be counted the same as teaching on any renewable certificate, or shall extend the date of expiration of any non-renewable certificate one year; and, that attendance for six weeks at an approved school may be submitted in lieu of examinations for the renewal of all first grade certificates.

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## House Bill No. 4

AN ACT creating a department of public safety, to provide protection for the lives and property of the inhabitants of the state of West Virginia, providing for the appointment of a superintendent, officers and members thereof, defining their powers and duties and fixing their compensation, and creating a board of commissioners to hear and determine charges to be filed against any member of the department of public safety for misconduct in office.

*Be it enacted by the Legislature of West Virginia:*

Section 1. A department of public safety is hereby created.  
2 The executive and administrative head of which shall be a super-  
3 intendent, who shall be appointed by the governor by and with  
4 the advice and consent of the senate, for a term of four years.  
5 The superintendent shall be on the date of his appointment at  
6 least thirty years of age and shall not be more than fifty-five years  
7 of age. He shall receive an annual salary of three thousand dol-  
8 lars to be paid as provided by law.

Sec. 2. The superintendent shall before entering upon the  
2 discharge of the duties of his office execute a bond payable to the  
3 state of West Virginia and conditioned for the faithful perform-  
4 ance of his duties in the penalty of ten thousand dollars, with se-  
5 curity thereon; such bond both as to form and security shall be  
6 approved by the board of public works. Before entering upon  
7 the duties of his office the superintendent shall subscribe to the  
8 oath as hereinafter provided. Such bond when approved and such  
9 oath when duly subscribed and taken, shall be filed with the secre-  
10 tary of state and preserved by him in his office.

11 The board of public works shall provide suitable and adequate  
12 offices at the capital of the state for the use of the department of  
13 public safety.

Sec. 3. The superintendent, with the advice and consent of  
2 the governor, shall appoint a deputy who shall receive an annual  
3 salary of two thousand dollars. The superintendent shall ap-  
4 point one clerk who shall be a competent bookkeeper and who  
5 shall receive an annual salary of fifteen hundred dollars and also  
6 appoint a competent stenographer who shall receive an annual sal-  
7 ary of twelve hundred dollars.

Sec. 4. The superintendent may tender to the governor his  
2 resignation as such at any time. The governor may accept the  
3 same as soon as he can secure a person who is competent  
4 and qualified to be appointed to fill the office. The super-  
5 intendent in office shall continue as such and perform all of the  
6 duties thereof until his successor is appointed and qualified.

Sec. 5. The superintendent shall create, appoint and equip  
2 a department of public safety, which shall consist of two companies  
3 or platoons. Each company or platoon shall be composed of one  
4 captain who shall receive an annual salary of eighteen hundred  
5 dollars, one lieutenant who shall receive an annual salary of six-  
6 teen hundred dollars, one first sergeant who shall receive an annual

7 salary of twelve hundred dollars, four sergeants who shall receive  
8 an annual salary of eleven hundred dollars each, four corporals  
9 who shall receive an annual salary of one thousand dollars each  
10 and such number of privates as the superintendent may decide to  
11 be best, but such number of privates shall not at any time be less  
12 than thirty nor more than fifty-five in any one company or platoon.  
13 Each private shall receive an annual salary of nine hundred dol-  
14 lars. Each member of the department of public safety, except the  
15 superintendent, bookkeeper and stenographer, shall before entering  
16 upon the discharge of his duties execute a bond with security in  
17 the sum of thirty-five hundred dollars payable to the state of  
18 West Virginia, conditioned for the faithful performance of his  
19 duties as such, and such bond shall be approved, both as to form  
20 and security, by the board of public works and the same shall be  
21 filed with the secretary of state and preserved in his office.

Sec. 6. The governor may at any time when he deems it ad-  
2 visable muster out or discharge any company or platoon. The of-  
3 ficers and members of such company or platoon so discharged shall  
4 each be granted an honorable discharge signed by the superintend-  
5 ent. Any company or platoon mustered out or discharged, as here-  
6 in provided, shall deliver to the superintendent all of the prop-  
7 erty and equipment belonging to the state which was in the pos-  
8 session of such company, or any member thereof, and the method  
9 and manner of such delivery and receipt therefor shall be pro-  
10 vided for by regulations prescribed by the superintendent.

Sec. 7. No person shall be appointed by the superintendent  
2 as a member of the department of public safety unless he be a  
3 citizen of the United States and of the state of West Virginia,  
4 and a *bona fide* resident of this state for the period of two years  
5 next immediately preceding his appointment. He shall also be a  
6 person not less than twenty-one nor more than forty-five years of  
7 age, able to ride horseback, of sound constitution, of good moral  
8 character, and he shall be required to pass such mental and physical  
9 examinations as may be provided for by the rules and regulations  
10 promulgated by the superintendent. No person shall be barred  
11 from becoming a member of such department of public safety be-  
12 cause of his religious or political convictions. All members of the  
13 department of public safety, including the deputy, clerk and sten-  
14 ographer, shall be appointed by the superintendent for the period  
15 of two years and all the members of the department of public  
16 safety, except the superintendent, deputy, captain, lieutenants,

17 bookkeeper and stenographer, shall receive an increase of sixty  
18 dollars per annum during continuous service after two years and  
19 an additional increase of sixty dollars per annum during con-  
20 tinuous service after four years. *Provided*, that not more than  
21 two such increases shall be made.

Sec. 8. No member of the department of public safety may  
2 withdraw or resign from the department of public safety force  
3 without the consent of the superintendent. And in the event any  
4 member should withdraw, resign or refuse to discharge the duties  
5 imposed upon him by this act, after having been duly appointed  
6 and qualified, without the consent in writing of the superintendent,  
7 he shall be deemed guilty of a misdemeanor and upon conviction  
8 thereof shall be fined not less than the sum of fifty dollars nor  
9 more than the sum of one thousand dollars, or imprisoned in the  
10 county jail for a period of not more than six months, or both.

Sec. 9. The superintendent shall re-appoint any member  
2 of the department of public safety at the expiration of his term  
3 of service if in the opinion of the superintendent it is proper so  
4 to do; but no member of the department of public safety who has  
5 been removed, suspended or discharged under the provisions of  
6 this act shall be eligible to be again appointed to the department  
7 of public safety unless the consent of the governor thereto in  
8 writing is first had and obtained.

Sec. 10. No officer or member of the department of public  
2 safety shall be eligible during his term of service, or within one  
3 year thereafter, to hold any other office under the constitution and  
4 laws of the state of West Virginia, whether such office be elective  
5 or appointive.

Sec. 11. Subject to the written approval of the governor, the  
2 superintendent may make and promulgate proper rules and reg-  
3 ulations for the government, discipline and control of the depart-  
4 ment of public safety and also proper rules and regulations for the  
5 examination of all applicants for appointment thereto.

6 The members of the department of public safety shall be per-  
7 mitted and allowed to carry such arms and weapons as may be  
8 prescribed by the superintendent and no license shall be required  
9 for such privilege.

Sec. 12. The superintendent shall provide the members  
2 of the department of public safety with suitable arms and weapons,  
3 and when and where he shall deem it necessary with suitably  
4 equipped horses and other means of conveyance. He shall also

5 provide proper uniforms for all members of the department of  
6-7 public safety.

8       The superintendent shall prescribe the kind, materials and  
9 style of all uniforms both for the officers and privates. All uni-  
10 forms and all arms, weapons and other property furnished to mem-  
11 bers of the department of public safety by the state of West Vir-  
12 ginia shall be and remain the property of the state.

13       The superintendent shall establish and maintain local head-  
14 quarters at such places in West Virginia which are in his judgment  
15 suitable and proper to render the department of public safety most  
16 efficient for the purpose of preserving the peace, protecting property,  
17 preventing crime, apprehending criminals and carrying into effect  
18 all other provisions of this act. The superintendent shall provide  
19 by lease or otherwise for housing and quarters for the accommo-  
20 dation of the members of the department of public safety and shall  
21 provide all equipment and supplies necessary for them in the per-  
22 formance of the duties of their office.

Sec. 13. The jurisdiction of the department of public safety  
2 shall extend anywhere in the state of West Virginia.

Sec. 14. The superintendent and deputy, respectively, and  
2 each of the officers and members of the department of public safety,  
3 are hereby authorized and empowered as follows:

4       *First.* To make arrests anywhere within the confines of  
5 the state of any and all persons charged with the violation of  
6 any law of this state, or of the United States, and when a wit-  
7 ness to the perpetration of any offense or crime, or to the viola-  
8 tion of any law of this state, or of the United States, may arrest  
9 without warrant; to arrest and detain any and all persons sus-  
10 pected of the commission of any felony or misdemeanor when-  
11 ever complaint is made and a warrant is issued thereon for such  
12 arrest, and any and all persons so arrested shall be forthwith  
13 brought before the proper tribunal for examination and trial  
14 in the county where the offense for which any such arrest has  
15 been made, was committed.

16       *Second.* To serve criminal process issued by any court or  
17 justice of the peace anywhere within this state; *provided, how-*  
18 *ever,* that they shall not serve civil process.

19       *Third.* To co-operate with local authorities in detecting  
20 crime and in apprehending any person or persons engaged in or  
21 suspected of the commission of any crime, misdemeanor or of-



22 fense against the law of this state, or of the United States, or of  
23 any ordinance of any municipality in this state.

24 *Fourth.* Members of the department of public safety shall be  
25 and are hereby created forest patrolmen, game and fish wardens and  
26 deputy prohibition officers throughout the state to do and perform  
27 any and all duties and exercise any and all powers of such officers,  
28 and may apprehend and bring, before any court or justice of the  
29 peace having jurisdiction of such matters, any one violating any  
30 of the provisions of chapters thirty-two-a, sixty-two and one hun-  
31 dred and fifty-three of Barnes' code of one thousand nine hundred  
32 and sixteen, and any and all amendments thereto; and the depart-  
33 ment of public safety shall at any time be subject to the call of the  
34 commissioner of prohibition to aid the prohibition department in  
35 apprehending any person violating any of the provisions of chap-  
36 ter thirty-two-a; they shall serve and execute warrants for the  
37 arrest of any person and warrants for the search of any premises  
38 issued by any properly constituted authority, and shall exercise  
39 all of the powers conferred by law upon a sheriff, constable or  
40 any other peace officer of this state, except that they shall  
41 not serve any civil process or exercise any of the powers of such  
42 officers in matters of a civil nature.

43 *Fifth.* Any member of the department of public safety know-  
44 ing or having reason to believe that any one has violated the law  
45 may make complaint in writing before any court or officer having  
46 jurisdiction and procure a warrant for such offender, execute the  
47 same and bring such person before the proper tribunal having  
48 jurisdiction. Members of the department of public safety shall  
49 make return on all such warrants to said tribunals and his official  
50 title shall be "member of department of public safety." Members  
51 of the department of public safety may execute any summons or  
52 process issued by any tribunal having jurisdiction requiring the  
53 attendance of any person as a witness before such tribunal and  
54 make return thereon as provided by law and any return by a  
55 member of the department of public safety showing the manner  
56 of executing such warrant or process shall have the same force and  
56-a effect as if made by a sheriff.

57 *Sixth.* The members of the department of public safety and  
58 each of them when called by the sheriff of any county, or when the  
59 governor by proclamation so directs, shall have full power and au-  
60 thority within said county, or within the territory defined by the  
61 governor, to direct and command absolutely the assistance of any

62 sheriff, deputy sheriff, constable, chief of police, policeman, town  
63 marshal, game and fish warden, deputy prohibition officer and  
64 any and every peace officer of the state, or of any county or mu-  
65 nicipality therein, or of any able-bodied citizen of the United  
66 States to assist and aid in accomplishing the purposes expressed  
67 in this act. When so called any officer or person shall, during the  
68 time his assistance is required, be, and be considered to be, for  
69 all purposes a member of the department of public safety force  
70 and subject to all the provisions of this act.

Sec. 15. No member of the department of public safety  
2 shall in any way interfere with the rights or property of any per-  
3 son except for the prevention of crime.

4 No member of the department of public safety shall in any  
5 way become active or take part in any political contest or at any  
6 time participate in any political party caucus, committee, primary,  
7 assembly or convention or in any general or special election what-  
8 soever except to cast his ballot.

9 No member of the department of public safety shall be de-  
10 tailed or ordered to duty at or near any voting precinct where  
11 any election or convention is held on the day of such election or  
12 convention; nor shall any member thereof remain in, about or near  
13 such voting precinct or place of convention, except to cast his  
14 vote. After voting he shall forthwith retire from such voting  
15 precinct. No member of the department of public safety shall act  
16 as an election official. If any member of the department of public  
17 safety be found guilty of violating any of the provisions of this  
18 section he shall be dismissed from the force by the superintendent  
19 as hereinafter provided.

20 No officer or member of the department of public safety shall,  
21 while on duty, be quartered in any property in the possession or  
22 control of any person, firm or corporation which is an employer  
23 of labor and employs more than twenty-five persons at one time  
24 unless no other quarters are reasonably available for their housing.

25 No officer or member of the department of public safety shall,  
26 in any labor trouble or dispute, between employer and employee  
27 aid or assist either party thereto, but shall in such cases see that  
28 the statutes and laws of the state of West Virginia are enforced  
29 in a legal way and manner.

Sec. 16. The superintendent and each of the other members  
2 of the department of public safety before entering upon the dis-

3 charge of his duties shall take and subscribe to an oath which  
4 shall be of the form and effect as follows, to wit:

5 "State of West Virginia,

6 County of....., to-wit:

7 I, ....., do solemnly  
8 swear that I will support the constitution of the United States;  
9 the constitution of the state of West Virginia; and I will hon-  
10 estly and faithfully perform the duties imposed upon me under  
11 the provisions of this act as a member of the department of public  
12 safety to the best of my skill and judgment.

13 .....  
14 Taken, subscribed and sworn to before me, this the.....  
15 day of.....

16 ....."

17 All such oaths, except that of the superintendent, shall be  
18 filed and preserved in the office of the department of public safety.

Sec. 17. It shall be the duty of all officers of the state, or  
2 of any county or municipality thereof, or jailors having the  
3 charge and custody of any jail or place of detention to receive  
4 any and all prisoners arrested by any officer or member of the  
5 department of public safety and to detain them in custody until  
6 ordered released by a tribunal of competent jurisdiction, and any  
7 such officer, jailor or person having custody of any jail or place of  
8 detention who shall fail or refuse to so receive and detain such  
9 prisoner or prisoners shall be deemed guilty of a misdemeanor and  
10 upon conviction thereof shall be punished by a fine of not less than  
11 twenty-five dollars nor more than two hundred dollars, or by  
12 imprisonment in the county jail for a period not exceeding sixty  
13 days, or by both such fine and imprisonment.

Sec. 18. Any person who shall at any time intercept, molest  
2 or interfere with any officer or members of the department of  
3 public safety while on duty, or any state, county or municipal  
4 officer or person then under the charge and direction of some  
5 officer or member of the department of public safety while on  
6 duty, or who shall refuse upon request to give any such officer or  
7 member any information possessed by him, relating to any offense  
8 or crime committed, or about to be committed, or of any riot, up-  
9 rising or disturbance existing or threatened shall be guilty of a  
10 misdemeanor and upon conviction thereof shall be fined not less  
11 than twenty-five dollars nor more than two hundred dollars or  
12 imprisoned in the county jail for a period not exceeding sixty

13 days, or by both such fine and imprisonment; *provided*, nothing  
14 in this section contained shall be construed to require any person  
15 to give information tending to incriminate himself or the hus-  
16 band or wife of such person.

Sec. 19. Any person who shall falsely represent himself  
2 to be an officer or member of the department of public safety, or  
3 to be under the order or direction of any officer or member of the  
4 department of public safety, or who shall, unless an officer or  
5 member thereof, wear or display the uniform, badge or other in-  
6 signia adopted or used by the public safety department, shall be  
7 deemed guilty of a misdemeanor and upon conviction thereof shall  
8 be punished by a fine of not less than twenty-five dollars nor more  
9 than two hundred dollars, or by imprisonment in the county jail  
10 for a period not exceeding six months, or by both such fine and  
11 imprisonment.

Sec. 20. If any officer or member of the department of pub-  
2 lic safety shall hire himself to any person, firm or corporation to  
3 guard his private property, or shall demand or receive from any  
4 person, firm or corporation any money or other thing of value  
5 as a consideration for the performance of, or the failure to per-  
6 form his duties under the rules and regulations made by said  
7 superintendent and the provisions of this act, he shall be deemed  
8 guilty of a felony and upon conviction thereof shall be confined  
9 in the penitentiary for a term of not less than one year nor more  
10 than five years, and any such officer or member of the department  
11 of public safety who shall violate any other of the provisions of  
12 this act, unless herein otherwise expressly provided for, shall be  
13 deemed guilty of a misdemeanor and upon conviction thereof  
14 shall be punished by a fine of not less than twenty-five dollars nor  
15 more than two hundred dollars or by imprisonment in the county  
16 jail for a period not exceeding four months, or by both such fine  
17 and imprisonment.

Sec. 21. If any person, firm or corporation shall give or  
2 offer to give any money or other thing of value to any officer  
3 or member of the department of public safety as a consideration  
4 for the performance of, or the failure to perform, any duty of  
5 such officer or member of the department of public safety under  
6 the rules and regulations of the superintendent and the provisions  
7 of this act, he or it shall be deemed guilty of a felony, and if a  
8 person, upon conviction thereof, shall be confined for a term in

9 the penitentiary of not less than one nor more than five years,  
10 and if a firm or corporation shall be fined not less than three  
11 thousand dollars nor more than ten thousand dollars.

Sec. 22. The superintendent may suspend or remove from  
2 the service any member of the department of public safety for any  
3 of the following causes, to wit: Refusing to obey the orders of his  
4 superior officer, neglect of duty, drunkenness, immorality, ineffi-  
5 ciency, abuse of his authority, interference with the lawful right of  
6 any person, participation in political primaries, conventions or  
7 elections or any other cause that may in the opinion of the superin-  
8 tendent be necessary for the good of the service. The superin-  
9 tendent shall act when notice of such causes shall be brought to  
10 his attention or upon charges in writing filed by any one and sup-  
11 ported by proper affidavit. In the event the superintendent shall  
12 fail to suspend or dismiss any such officer or member after such  
13 matters have come to his knowledge, or such charges and proof  
14 thereof has been made and filed with him, by any person or per-  
15 sons, an appeal may be had to the board of commissioners to be  
16 hereinafter created for such purpose, and all of the original papers  
17 in such cases shall be delivered by the superintendent to the board  
18 of commissioners who shall decide such cases in the manner here-  
19 inafter provided.

Sec. 23. The governor, by and with the consent of the sen-  
2 ate shall appoint two persons who shall be residents of this state  
3 as members of the board of commissioners. The governor shall  
4 appoint one member from each of the two political parties which at  
5 the last preceding general election cast the most votes for the  
6 office of governor. The term of office of each of such commission-  
7 ers shall be for the period of two years beginning on the first day  
8 of July, 1919, and none of said commissioners shall hold any other  
9 office either elective or appointive in this state, and their succes-  
10 sors shall be appointed by the governor at the end of said period of  
11 two years. The two persons so appointed shall constitute the  
12 board of commissioners whose duty it shall be to review all cases  
13 of appeal from the findings of the superintendent on charges filed  
14 against any such member of the department of public safety or  
15 in all cases of dismissal or suspension of any member of the de-  
16 partment of public safety by the superintendent as hereinbefore  
17 provided. Charges may be preferred and filed in writing before  
18 the board of commissioners against any officer or member of the  
19 department of public safety, including the superintendent and

20 his deputy, for any neglect of duty, inefficiency, immorality,  
21 pernicious activity in political campaigns, contests, conventions,  
22 primaries or elections, abuse of authority, or for any other mis-  
23 conduct in office without first filing such charges before the su-  
24 perintendent as hereinbefore provided. When such charges are  
25 so filed the board of commissioners shall hear, try and determine  
26 the same according to the rules and regulations governing such  
27 hearing as may be adopted by the board and according to law.

28 When charges are filed against any member of the depart-  
29 ment of public safety before the board of commissioners a copy of  
30 such charges shall be served upon the accused who shall within a  
31 reasonable time, to be fixed by the board, be required to answer  
32 the same, and the board shall give notice in writing to the accused  
33 of the time and place when the said charges will be heard and  
34 considered by it. It shall be the duty of the board to adopt proper  
35 rules and regulations prescribing the manner of procedure of such  
36 hearings and so far as possible the board shall be governed by the  
37 rules of legal procedure relating to the admissibility of evidence.

38 When such charges are filed before the board, either originally  
39 or on appeal, and are supported by reasonable proof by affidavit  
40 against any officer or member of the department of public safety,  
41 the board shall as soon as possible consider the same, and if one or  
42 more members of the board shall be of the opinion that said  
43 charges and proof supporting the same constitute proper grounds  
44 for suspension, the accused shall be suspended from the depart-  
45 ment of public safety until a fair trial may be had upon such  
46 charges.

Sec. 24. In all cases before a trial shall be had the accused  
2 shall be served with a copy of the charges and given a reasonable  
3 opportunity to defend himself against such charges, and if on the  
4 hearing of such charges the members of the board shall be equally  
5-7 divided then the accused shall be suspended until a further trial  
8 is had with a third member presiding as hereinafter provided for.  
9 If upon any trial two members of the board shall be of opinion  
10 that the accused is guilty of the charges preferred then he shall be  
11 discharged from the service without further trial.

12 If at any trial the board should be equally divided as here-  
13 inbefore stated and the accused suspended, the board at such time  
14 shall fix a day for the final hearing and on said final hearing the  
15 governor of this state shall be, and is hereby created, the third  
16 member of the board and shall preside at the hearing of such

17 charges against the accused and if in case the board should again  
18 be equally divided in their finding, the governor shall cast the de-  
19 ciding vote on all hearings on charges preferred against any officer  
20 or member of the department of public safety where the board  
21 has been equally divided. It shall require the votes of at least  
22 two of the members of the board to suspend any member on charges  
23 preferred and the votes of three of the members of the board to  
24 dismiss the accused.

Sec. 25. Each member of the board of commissioners ex-  
2 cept the governor, shall be allowed the sum of ten dollars per  
3 day for each and every day necessarily employed in the discharge  
4 of his duties as a member thereof, and in addition thereto he  
5 shall be paid his necessary actual expenses in attending any  
6 meetings thereof.

Sec. 26. The board of control shall make and prescribe  
2 rules and regulations respecting the payment of the expenses  
3 of the officers and members of the department of public safety,  
4 as well as for the necessary equipment and all of the other ex-  
5 penditures provided for in connection therewith and the board  
6 of control shall approve the expenditures of the department of  
7 public safety as they are authorized by law to do for other state  
8 institutions and all expenditures of such department shall be  
9 audited in the same way and manner as the expenditures of other  
10 state departments.

Sec. 27. All salaries authorized herein to be paid to the  
2 officers and members of the department of public safety shall be  
3 paid monthly upon proper requisitions and warrants.

Sec. 28. Whenever any officer or member of the department  
2 of public safety shall present evidence of his official character to  
3 any railroad conductor, manager or officer of any corporation  
4 engaged in the business of transporting passengers, such con-  
5 ductor, manager or officer shall upon demand transport such  
6 officer or member of the department of public safety anywhere  
7 in the state of West Virginia without making any charge therefor,  
8 and such conductor, manager or officer shall also transport any and  
9 all prisoners in the charge or custody of members of the depart-  
10 ment of public safety, and all claims for such transportation of  
11 any prisoners shall be presented to, examined, audited and allowed  
12 by the superintendent and shall be paid as other claims against the  
13 state are paid.

Sec. 29. The superintendent of the department of public

2 safety is authorized from time to time to collect statistics and dis-  
3 tribute information throughout the state, and in this co-operate  
4 with the state superintendent of public schools and other educa-  
5 tional agencies of the state, to secure the naturalization and  
6 Americanization of all foreign-born inhabitants; to employ all  
7 agencies in his power to secure a harmonious feeling and under-  
8 standing between the employers of labor and their employees;  
9 and to secure this end he may call upon the educational and  
10 other state institutions for public speakers and is authorized to  
11 hold public meetings at any point in the state where, in his  
12 judgment, such meetings will be of advantage to carry out the  
13 spirit of this law.

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ORDERED PRINTED BY HOUSE OF DELEGATES.

## House Bill No. 17.

Introduced March 19, 1919. Referred to the Committee on Taxa-  
tion and Finance. Reported back without recommendation. Ordered  
printed by the House.

A BILL to provide revenue for the state by levying a license tax on  
the operation of gas pumping stations and gas compressing  
stations, authorizing the state tax commissioner to provide rules  
and regulations for the collection of such taxes, defining the  
duties of the said tax commissioner hereunder and regulating  
the operation of gas pipe lines, gas pumping plants and gas  
compressor stations.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Every person, firm and corporation (hereinafter  
2 called company) engaged in this state in the operation of pipe  
3 lines for the transportation of natural gas, for sale to consumers  
4 within or without the state, for the use within or without the  
5 state, in the making of any products derived from natural gas,  
6 whenever the gas so transported or conveyed for sale or for use  
7 within or without the state is driven through or drawn into such  
8 pipe lines by gas pumping plants or gas compressor stations, shall  
9 pay to the state an annual license tax equal to one-tenth of one  
10 cent per thousand feet of gas passing through such gas pumping

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11 or gas compressing station, the said license tax of one-tenth of a



12 cent a thousand feet, to be computed and paid for each gas pump-  
13 ing plant or gas compressing station, that shall be operated within  
14 the state.

Sec. 2. The state tax commissioner is hereby vested with full  
2 power and authority and it shall be his duty to make, issue and  
3 put in force all necessary rules and regulations for ascertaining  
4 and assessing the license taxes hereby imposed upon each person,  
5 firm and corporation, to install such meters or other devices for  
6 measuring the flow of gas and the pressure thereof in the pipe  
7 lines in any station or plant, as may be necessary for the purpose  
8 of ascertaining and assessing the license taxes herein provided for.

Sec. 3. The tax year for the collection of said tax shall be  
2 June following, beginning July first, one thousand nine hundred  
3 and nineteen, and shall be divided into two periods of six months  
4 each. Every person, firm and corporation subject to the tax hereby  
5 imposed shall deliver to the state tax commissioner a report in  
6 writing within thirty days after the end of each half year period  
7 showing the number of thousand feet of natural gas passed through  
8 each gas pumping plant or gas compressor station maintained or  
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9 operated by such company during said period, and the amount of  
10 the tax due thereon. Such report shall be made in accordance  
11 with any reasonable requirements of the state tax commissioner  
12 and shall be signed and sworn to by the owner, manager, president,  
13 vice president or accounting chief of the company, making such  
14 report as the case may be. Any person, firm or corporation failing  
15 or refusing to make the return herein required, shall be guilty of a  
16 misdemeanor and shall be fined not less than five hundred dollars  
17 nor more than two thousand dollars for each day that such failure  
18 continues; but the tax commissioner may, for good cause extend  
19 the time for making a return in any case, and may for good reason,  
20 excuse delay in making of any such return.

Sec. 4. If such return be satisfactory to the state tax com-  
2 missioner, he shall ascertain and assess the tax upon the person,  
3 firm or corporation making the same, and shall notify the person,  
4 firm or corporation of the amount of such tax by a notice for-  
5 warded by registered letter, addressed to such person, firm or cor-  
6 poration at its or their place of business. Such ascertainment of  
7 the tax shall be final and conclusive. If such return be not satis-  
8 factory to the said commissioner, or if the company fail or refuse

9 to make a return, the commissioner shall proceed, in such manner  
10 as he may deem best, to obtain the facts and information required  
11 to be furnished by such return. As soon as possible after procuring  
12 such information as he may be able to obtain with respect to any  
13 return which he may find to be satisfactory, or with respect to  
14 any company failing or refusing to make a return, the state tax  
15 commissioner shall proceed to ascertain and assess the tax upon  
16 such company, and shall notify it of the amount thereof as here-  
17 inbefore provided. And his act shall be final as to any company  
18 which failed or refused to make a return.

Sec. 5. All taxes assessed under the provisions of this act  
2 shall be due and payable immediately upon receipt of the notifica-  
3 tion of the amount of such assessment provided for in section four  
4 of this act, and every person, firm and corporation so assessed shall  
5 pay such tax into the state treasury within thirty days after the  
6 receipt of such notification. So much of the total proceeds of  
7 such license tax as may be necessary, shall be applied to the pay-  
8 ment of any obligation which may be entered into by the state,  
9 providing for the payment of the judgment imposed upon the  
10 state by the findings of the United States supreme court, in the  
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11 case of the state of Virginia vs. the state of West Virginia. Any  
12 residue shall be placed to the credit of the state road fund.

Sec. 6. Any tax assessed under the provisions of this act,  
2 against any such company, shall constitute a debt to the state and  
3 may be collected by action of assumpsit or appropriate judicial  
4 proceeding, which remedy shall be in addition to all other existing  
5 remedies. It shall be the duty of the state tax commissioner to  
6 proceed to collect such taxes promptly.

Sec. 7. The special license tax imposed by this act shall be in  
2 addition to all license or other privilege taxes now imposed or  
3 prescribed by law as a condition for the transaction of any business  
4 in the state, by any person, partnership, association, company or  
5 corporation; and when paid, shall authorize the company making  
6 payment to engage in the business for which the tax was paid  
7 within this state for the half year period succeeding that covered  
8 by the return from which such taxes were assessed.

Sec. 8. Any person, required or authorized by law to make.  
2 sign or verify any return required by this act who makes any false  
3 or fraudulent return or statement with intent to defraud the  
4 state or defeat or evade the payment of the tax or any part thereof

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5 imposed by this act, shall be guilty of a misdemeanor; and upon  
6 conviction thereof shall be fined not less than one thousand  
7 (\$1,000.00) dollars nor more than five thousand (\$5,000.00)  
8 dollars, or may be imprisoned not exceeding one year or both at  
9 the discretion of the court, to which fine shall be added the costs  
10 of prosecution.

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## House Bill No. 12

Introduced March 14, 1919. Reference to a committee dispensed  
with. March 17, read a first time and ordered to its second reading.

A BILL to provide revenue by regulating the holding of fairs and  
race meetings in the state of West Virginia and to control such  
fairs and race meetings by creating a state racing commission  
and defining the powers and duties of such commission.

*Be it enacted by the Legislature of West Virginia:*

First: Any corporation or association formed for the purpose  
2 of racing and the breeding and improving the breed of horses and  
3 conducting horse races in contests of speed, and the establishment  
4 of fairs, exhibition of horses, shall have the power and right, sub-  
5 ject to the provisions of this act, to hold one or more race meetings  
6 in each year and to hold, maintain and conduct running, trotting  
7 and pacing races at such meetings.

8 At such meetings the corporation or owners of the horses  
9 engaged in such races, or others who have participated in the races  
10 for purses, prizes, premiums or stakes to be contested for, but no  
11 person or persons other than the owners of horses contesting in a  
12 race shall have any pecuniary interest in the purses, prizes,  
13 premiums or stakes contested for in such races, or be entitled to  
14 receive any portion thereof after such race has been finished, and

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15 the whole of such purses, prizes, premiums and stakes shall be  
16 allotted in accordance with the terms and conditions of such race  
17 and the provisions of this act hereinafter contained. Excepting,  
18 however, the breeder or breeders of any horses contesting in such  
19 race may have allotted in accordance with the terms of such race  
20 their share in such purses, prizes, premiums or stakes contested for.

21 Such meetings and fairs shall not be held except during the

22 period extending from the first day of April until the first day of  
23 December, inclusive, in each year, unless, however, for special  
24 reasons the state racing commission hereinafter provided for may  
25 authorize other dates.

Second: A state racing commission is hereby established,  
2 created and constituted, to be composed of three persons, who are  
3 residents and citizens of this state, which shall be appointed by  
4 the state tax commission of this state, and not more than two of  
5 whom shall belong to the same political party.

6 The said state racing commission, so to be appointed, shall  
7 each hold office for a term of four (4) years, and each of them  
8 before assuming the duties of his office shall take an oath to sup-  
9 port the constitution of the United States and the constitution of  
10 this state, and faithfully discharge his duties as such member of  
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11 said racing commission, which oath shall be filed in the office of  
12 the secretary of state.

13 The first commissioner to be appointed under this act shall  
14 be appointed within fifteen (15) days after this act goes into  
15 effect. Said commission shall have the power to appoint a secre-  
16 tary who shall serve during its pleasure and who shall have his  
17 office at the capitol of the state, and whose duty it shall be to keep  
18 a full and complete record of the proceedings of the state racing  
19 commission, and to preserve at its office all books, maps, documents  
20 and papers entrusted to his care and perform such other duties as  
21 the commission may prescribe. The said clerk shall be paid a  
22 salary not to exceed fifteen hundred dollars per annum and each  
23 of said members of said racing commission shall receive a com-  
24 pensation of five dollars per day for the time actually engaged in  
25 their duties as members of said commission, together with their  
26 actual expenses in traveling while attending to their duties as  
27 members of said commission. But no part of the salary of said  
28 clerk or commission shall be paid out of the state treasury but the  
29 same shall be assessed by the commission and paid by the several  
30 associations and corporations acting under the provisions of this  
31 act and the said commission shall on or before the first day of

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32 December in each year assess upon each of said associations and  
33 corporations its just proportion of said salary so to be paid to  
34 said clerk and the said commission. The said commission shall  
35 before receiving any money for their per diem and expenses as

36 heretofore provided, file with the tax commission an itemized  
37 statement of the time employed by each and the expenses incurred  
38 by each, which is not to be paid until approved by the tax com-  
39 missioner.

40 And the said commission shall also bi-annually make a full  
41 report to the legislature of the proceedings for the two years  
42 period ending with the first day of December preceding the meet-  
43 ing of the legislature and shall embody in said report such sug-  
44 gestions and recommendations as it may deem advisable to be sub-  
45 mitted to the legislature, together with the expenses that it has  
46 assessed upon said meetings and associations to pay the expenses  
47 of said commission and clerk as herein provided, and what  
48 amount has been paid into the state under the provisions of this  
49 act as hereinafter provided.

Third: The said racing commission shall have the power  
2 to prescribe the rules, regulations and conditions under which  
3 races shall be conducted in this state, which rules and regulations  
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4 shall be recorded upon its books in its office and any corporation or  
5 association desiring to conduct racing at any meeting may annu-  
6 ally apply to the state racing commission for a license to do so  
7 and all licenses issued shall also be shown upon the books of said  
8 commission. Said commission shall issue said license and grant  
9 the same for a term of one year, but said license shall contain a  
10 provision that all meetings and races conducted under this act  
11 shall be subject to the rules, regulations and conditions from time  
12 to time adopted by said commission and shall be regulated by the  
13 commission.

14 The books and proceedings of said commission so kept show-  
15 ing the rules prescribed by it for the conduct of said meetings and  
16 the issuing of said licenses and all other proceedings by it, shall  
17 at all times be subject to the inspection upon application of any  
18 one so desiring to see the same and shall be treated as public  
19 records.

20 Said commission may have the power for good reasons to  
21 revoke any license granted by said commission to any association  
22 or corporation, but the action of said commission in revoking any  
23 such license shall be subject to a review by any court of competent  
24 jurisdiction.

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Fourth: Said commission in granting any license to any

2 such association or corporation to conduct racing, may in its discretion permit the use during such meetings of what is known as parimutuel machines to be used during such meetings if such association or corporation so desires.

6 In cases where said commission permits the use of parimutuel machines the said commission shall require in the license to the use of the same that at least two (2) per cent of all moneys placed in said machines during any meeting or association, shall be paid to the tax commissioner of the state and shall be credited by the tax commissioner to the general road fund of the state.

12 And likewise the said commission shall require the said association or corporation to pay to the tax commissioner three per cent (3%) of all moneys taken in as gate receipts by the said association or corporation during the meeting that said parimutuel machines are used, which shall be paid in to the said general road fund.

18 And the books of said racing association or corporation using said machines at any meeting conducted by it shall at all times be open to inspection by the said tax commissioner or said racing commission, to see that the proper amount due to the state from H. B. No. 12]

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22 the money placed in said machines may be properly accounted for to the state. And the amount due from any association or corporation to the state shall be paid and accounted for to the tax commission of the state on or before the first day of December of each year; but nothing in this act providing for the payment of this tax to the state shall prevent the commission from granting the license to said corporation or association permitting said corporation or association to take from the amount placed in said machines such additional amount as in its judgment is necessary to maintain said corporation and association and provide suitable purses, prizes and premiums for breeders and owners of horses to contest for at such meetings.

34 Public bookmaking and gambling at any race meeting shall not be permitted by said racing commission and the same is hereby declared a misdemeanor and shall be punished by a fine not less than one hundred dollars, nor more than one thousand dollars, for each day the same is permitted or allowed, and any association or corporation permitting the same shall be guilty of such misdemeanor, and all persons aiding and abetting therein shall likewise be guilty of said misdemeanor and punishable by fine as here-

42 inbefore provided.

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43 But it is expressly provided that this act shall not apply to  
44 horse shows, the purpose of which is merely to show horses, unless  
45 racing is conducted and such horse shows add the purses, prizes  
46 and stakes provided in such race contests and all such meetings  
47 known as horse shows where prizes, purses and stakes are offered  
48 in contest for speed shall be under the provisions of this act and  
49 this act shall apply to same.

50 However, in no case shall this act apply to any fair or horse  
51 show held for a period of not over four days.

Fifth: All acts, parts of acts, or laws of this state in conflict  
2 with this act, are hereby repealed.

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## House Bill No. 20.

Introduced March 21, 1919. Referred to the Committee on Taxation and Finance. March 22, taken up out of regular order, read a first time and ordered to its second reading.

A BILL to amend and re-enact sections one and one hundred twenty of chapter thirty-two of Barnes' code of West Virginia, one thousand nine hundred and sixteen, as amended and re-enacted by chapter one hundred and two (Senate Bill No. 99) of the acts of the regular session of the legislature of West Virginia, one thousand nine hundred and nineteen, and section one hundred and fourteen of chapter thirty-two of Barnes' code of West Virginia, one thousand nine hundred and sixteen, and section sixty-four of chapter thirty-two of Barnes code, one thousand nine hundred and sixteen, as amended and re-enacted by chapter thirty-nine of the acts of the legislature of West Virginia, one thousand nine hundred and seventeen, and as further amended by chapter one hundred and two (Senate Bill No. 99) of the acts of the regular session of the legislature of West Virginia, one thousand nine hundred and nineteen, and sections forty and one hundred and twenty-a of chapter one hundred and two (Senate Bill No. 99) of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to regulations respecting licenses and license taxes.

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*Be it enacted by the Legislature of West Virginia:*

That sections one and one hundred twenty of chapter thirty-two of Barnes' code of West Virginia, one thousand nine hundred and sixteen, as amended and re-enacted by chapter one hundred and two (Senate Bill No. 99) of the acts of the regular session of the legislature of West Virginia, one thousand nine hundred and nineteen, and section one hundred and fourteen of chapter thirty-two of Barnes' code of West Virginia, one thousand nine hundred and sixteen, and section sixty-four of chapter thirty-two of Barnes' code, one thousand nine hundred and sixteen, as amended and re-enacted by chapter thirty-nine of the acts of the legislature of West Virginia, one thousand nine hundred and seventeen, and as further amended by chapter one hundred and two (Senate Bill No. 99) of the acts of the regular session of the legislature of West Virginia, one thousand nine hundred and nineteen, and sections forty and one hundred and twenty-a of chapter one hundred and two (Senate Bill No. 99) of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to regulations respecting licenses and license taxes, be amended and re-enacted so as to read as follows:

Section 1. No person without a state license therefor shall

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- 2 (a) keep for public use or resort, bowling alley, pool table,
- 3 billiard table, bagatelle table, or any table, of like kind; or
- 4 (b) carry on the business of a druggist; or
- 5 (c) exhibit any circus, menagerie, circus and menagerie com-
- 6 bined, theatrical performance, street or other carnival, or public
- 7 show, to which admission is obtained for money or reward, except
- 8 for the benefit or under the auspices of a volunteer fire depart-
- 9 ment; or
- 10 (d) run or operate, for profit, a merry-go-round, or roller
- 11 coaster, or scenic railway, or like device, or keep for public use or
- 12 resort, a shooting gallery, or skating rink, or run or operate a
- 13 cane-rack, doll baby rack, striking machine, or like device, or
- 14 human laundry device, or dip device; or
- 15 (e) act as a hawker or peddler; or
- 16 (f) act as an auctioneer; or
- 17 (g) practice the business of real estate agent, stock broker,
- 18 merchandise broker, or other broker, by buying or selling for
- 19 others, stocks, securities, or any other property for a commission
- 20 or reward; or
- 21 (h) practice the business of money broker, buying or selling



22 uncurrent or depreciated money or funds; or exchanging one kind  
23 of money or funds for another, for benefit or reward; or

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24 (i) practice the business of pawn broker by lending money or  
25 other thing for profit, for or on account of personal property de-  
26 posited with the lender in pledge; or

27 (j) sell, or barter, or offer, or expose, for sale or barter, any  
28 patent right; or

29 (k) sell, offer, or expose, for sale to merchants, trading  
30 stamps, premium stamps, or certificates of like nature or character,  
31 or undertake with merchants to redeem such stamps or certificates  
32 in money or goods; or

33 (l) being a traveling agent, canvasser or salesman, sell or con-  
34 tract to sell any lightning rods, sewing machines, stove or range, or  
35 organ, or other musical instrument, or books, maps, prints, pamph-  
36 lets and periodicals except such books, pamphlets and periodicals  
37 that be of a religious or ethical nature, whether manufactured  
37a within or without this state; or

38 (m) sell, offer, or expose for sale, or solicit, or receive orders  
39 for manufactured tobacco, snuff, cigars, cigarettes, or other prepa-  
40 ration of tobacco, or cigarette paper or wrappers, at retail, or lay  
41 cigarette papers where they may be stolen or carried away; or

42 (n) carry on business of junk dealer, or act as agent, solicitor,  
43 canvasser, or salesman, for any junk dealer; or

44 (o) sell pistols, revolvers, dirks, slung-shots, billies, howie  
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45 knives, metallic or other false knuckles, or weapons of like kind; or

46 (p) maintain or occupy any house boat, or like structure or  
47 vessel, upon or along the bed, banks or shores of any navigable  
48 streams; or

49 (q) maintain any slot machine, or other automatic device  
50 which for the same profit or reward, in each case, and without any  
51 violation of law, furnishes music, or exhibits pictures, or provides  
52 facilities for weighing, or supplies any merchandise or other thing,  
53 or renders any service, except that no license in any case be re-  
54 quired to maintain any machine actually delivering merchandise  
55 therefrom, automatically, where such machine is kept within the  
56 merchant's place of business; but no slot machine or other auto-  
57 matic device with respect to which or its operation, service, or  
58 supplies, there is any element of chance (being a gaming table,  
59 within the meaning of section one, chapter one hundred and fifty-

60 one of the code), shall be licensed or protected by any license; or  
 61 (r) being a corporation heretofore, or hereafter chartered  
 62 under the laws of this state, whether its principal place of business  
 63 or chief works be within or without the state, do, or attempts to  
 64 do, any business by virtue of its charter or certificate of incor-  
 65 poration; or

66 (s) being a corporation chartered or organized under the  
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67 laws of any other state or country, hold property or transact busi-  
 68 ness in this state; or being a corporation, hold more than ten thou-  
 69 sand acres of land in this state; or

70 (t) solicit, carry on or practice the business of a collection  
 71 agency, or association, whether it be a person, firm, or corpora-  
 72 tion; or

73 (u) keep or maintain, a public park, admission to which is  
 74 obtained for money or reward; or

75 (v) practice the business of telling or pretending to tell for-  
 76 tunes; or

77 (w) carry on business of a labor agency; or

78 (x) manufacture, sell or distribute, at wholesale or retail,  
 79 any preparations of the kind, character or nature, that are pre-  
 80 pared, mixed and sold at a soda fountain, or any such prepara-  
 81 tions as bevo, milo, pablo, moxie, ginger ale, near beer, coco cola,  
 82 pop or any other preparation of like nature and character, com-  
 83 monly called and known as soft drinks.

84 *Provided*, that nothing in this chapter contained, and no  
 85 license or payment under the provision hereof shall be taken to  
 86 legalize any act which otherwise may be in violation of law, or  
 87 exempt any person from any penalty prescribed for such violation.  
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Sec. 40. The state license to sell patent rights, or act as a  
 2 hawker or peddler; or run or operate for profit, a merry-go-round,  
 3 a can rack, doll baby rack, knife rack, striking machine, or like  
 4 device, or human laundry device, or dip device, or roller coaster,  
 5 or scenic railway, or like device, or conduct a shooting gallery, or  
 6 keep for public use or resort, a bowling alley, pool or billiard table,  
 7 or any other table of like nature at a public watering place or  
 8 public park in this state; or to keep or maintain a public park to  
 9 which admission is obtained for money or reward, or conduct a  
 10 theatrical performance on a showboat plying the navigable streams  
 11 of this state, shall be either for one year, four months, or six

12 months from the commencement thereof. If for four months, the  
13 state tax thereon shall be one-half, and if for six months, three-  
14 fifths of the annual tax.

Sec. 114. On every license to act as a hawker or peddler, if  
2 the person licensed travel without a horse, one hundred dollars; if  
3 he travel with one horse, with or without a wagon, or other vehicle,  
4 one hundred and fifty dollars; if he travel with two or more  
5 horses, with or without vehicle, two hundred dollars. If a license  
6 be granted for a period of less duration than one year, the scale  
7 of taxation shall be as follows: For any period not to exceed four  
10 [H. B. No. 20  
8 months, the state tax thereon shall be one-half, and for any period  
9 not to exceed six months, three-fourths of the annual tax. Such  
10 license shall be placed in some conspicuous place in his wagon or  
11 about his pack; *provided*, that nothing in this chapter shall be  
12 construed as levying a license tax on farmers selling produce or  
13 what are commonly known as hucksterers, who, for the purpose of  
14 this chapter, are persons that travel with a wagon or other vehicle  
15 with one or more horses, and buy or sell dairy, farm, garden or  
16 poultry produce and pay or receive pay therefor with money, or  
17 with articles of merchandise for the sale of which no license tax  
18 is required by law; *provided, further*, that no tax or fee shall be  
19 imposed on any license to act as hawker or peddler, granted to any  
20 soldier of the late or civil war.

Sec. 120. The state tax on every license:

2 (a) to exhibit a circus, or menagerie, or circus and menagerie  
3 combined, wild-west show, trained animal show, or dog and pony  
4 show, shall be one dollar for each railroad car used in transport-  
5 ing said show into or through this state, for each exhibition or  
6 performance. Where the transportation of such show is by wagon,  
7 motor truck, or other vehicle, the tax upon such show shall be ten  
8 dollars per day;

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9 (b) the state tax on every license to exhibit side show in the  
10 vicinity of any other show, shall be ten dollars per day;

11 (c) the state tax on every license to exhibit a street or other  
12 carnival, or any show connected with county or other fair, five  
13 dollars a week for each separate entertainment or exhibition for  
14 which a fee is charged;

15 (d) the state tax on every license to exhibit any other show  
16 in cities or towns with a population of ten thousand or more, ten

17 dollars, and in cities or towns of less than ten thousand, five  
18 dollars.

19 Every show, exhibition or performance, such as is described  
20 in clause (a) of this section, whether under the same canvass or  
21 not being included, so that an additional fee for admission be  
22 charged in lieu of a check authorizing the holder to re-enter with-  
23 out charge, shall be construed to require an additional license for  
24 any further or other show, exhibition, or performance.

Sec. 120a. The state license tax on every wholesaler, dis-  
2 tributor or manufacturer engaging in the manufacturing, pre-  
3 paring, mixing, compounding, selling or distributing any and all  
4 preparations of every kind, character and nature, commonly called  
5 known as soft drinks, such as are prepared, mixed and sold at

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6 what is commonly called a soda fountain, and all such preparations  
7 as bevo, milo, pablo, moxie, ginger ale, near beer, coca cola, pop  
8 and all other preparations, mixtures, compounds of every kind and  
9 character, commonly called and known as soft drinks, shall be, on  
10 each manufacturer, wholesaler or distributor, the sum of twenty-  
11 five dollars annually, for each county in the state in which any  
12 such manufacturer, wholesaler or distributor does business.

## House Bill No. 8

Introduced March 13, 1919. Reference to Committee dispensed  
with, and ordered to its first reading. March 14, coming up in  
regular order for consideration, was read a first time and ordered  
to its second reading.

A BILL relating to the salaries and compensation of judges and  
court reporters of the circuit courts of the state.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That from and after the first day of July, one  
2 thousand nine hundred and nineteen, each of the judges of the  
3 circuit courts of the state shall receive an annual salary of four  
4 thousand dollars, payable monthly out of the treasury of the state.

Sec. 2. That from and after said date, the county courts of  
2 the judicial circuits having an aggregate population of more than  
3 forty-eight thousand and not more than sixty thousand, accord-  
4 ing to the United States census last preceding the beginning of

5 the year in which said salary is payable, shall pay the respective  
6 judges of such circuits an additional annual compensation of not  
7 less than eight hundred nor more than twelve hundred dollars,  
8 and the county courts of the judicial circuits having a population  
9 of more than sixty thousand, according to such census, shall pay  
10 the respective judges of such circuits an additional annual com-  
11 pensation of not less than twelve nor more than eighteen hundred  
12 dollars, which shall be apportioned between the counties compris-  
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13 ing the judicial circuits, on the basis of the population of such  
14 counties according to such census, unless otherwise agreed by the  
15 county courts thereof, and shall be paid monthly out of the treas-  
16 uries of such counties; and no other or additional compensation  
17 shall be allowed or paid any circuit judge under any general or  
18 special act.

Sec. 3. That from and after said date, the circuit court of  
2 any judicial circuit may appoint an official court reporter and fix  
3 the annual compensation at not more than twelve hundred dollars  
4 for circuits having a population of less than forty thousand, and  
5 not more than two thousand dollars for circuits having a popula-  
6 tion of over forty thousand, according to such census, which shall  
7 be apportioned between the counties comprising the judicial cir-  
8 cuit, on the basis hereinbefore provided, unless otherwise agreed  
9 by the county courts thereof, and shall be paid monthly out of the  
10 treasuries of such counties; and no other or additional compensa-  
11 tion or fees shall be allowed or paid to or retained by such reporter.  
12 All fees allowed by law for the services of such reporter shall be  
13 taxed as costs and collected and paid into the treasury of the  
14 county.

Sec. 4. All acts and parts of acts, whether of general or spe-  
cial nature, inconsistent herewith are hereby repealed.

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ENGROSSED

## House Bill No. 3

A BILL to raise additional revenue for payment of the debt of West  
Virginia to Virginia and for other purposes, levying a license tax  
on the transportation of petroleum and natural gas by means of  
pipe lines, pumping stations and gas compressor stations, author-  
izing the state tax commissioner to provide rules and regula-

tions for the collection of such tax, defining the duties of the state tax commissioner hereunder, and regulating the operation of oil and gas pipe lines, gas and oil pumping plants and gas compressor stations.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Every person, firm and corporation (hereinafter 2 called company) engaged in this state in the operation of pipe 2 [Eng. H. B. No. 3 3 lines for the transportation of natural gas, crude oil or petroleum 4 or the products and distillates thereof, for sale to consumers 5 within or without the state, or for use within or without the state 6 in the making or any products derived from natural gas, crude 7 oil or petroleum, shall pay to the state an annual license tax equal 8 to one-fifth of one per cent per thousand cubic feet for each twenty- 9 five miles or fraction thereof, such natural gas is so transported or 10 conveyed within this state, in such gas pipe lines, and two cents 11 per barrel of crude oil or petroleum or the distillates thereof re 12 ceived for transportation or transported in such oil pipe lines.

Sec. 2. Whenever the gas or oil so transported or conveyed 2 for sale or for use within or without this state is driven or drawn 3 by pressure or suction through such pipe lines by oil pumping 4 stations or by gas pumping stations, whether located within or 5 without this state, every person, firm and corporation engaged in 6 the operation of any such oil or gas pumping station or gas com- 7 pressor station shall pay to the state a further annual license tax 8 equal to one-tenth of one cent per thousand feet of gas passing 9 through such gas pumping plant or compressing station, and a 10 further annual license tax of two cents per barrel of such crude 11 oil, petroleum or its distillates passing through such oil pumping 12 Eng. H. B. No. 3] 3

12 stations, in addition to the tax provided for in section one of this 13 act. *Provided*, that where gas or oil passes through more than 14 one such station, such further annual license tax shall be charged 15 but once; and further, that the use of gas on the leasehold for 16 purely mechanical purposes in the further production of oil or gas 17 therefrom shall not be deemed a transportation within the mean- 18 ing of this act. *Provided, further*, that this act shall not apply to 19 and include gathering gas pipe lines which are four inches or less 20 in diameter connecting gas wells with main transportation gas 21 lines.

Sec. 3. The state tax commissioner is hereby invested with full power and authority, and it shall be his duty, to make, issue and put in force all necessary rules and regulations for ascertaining and assessing the license taxes hereby imposed upon every such person, firm and corporation and for the collection of such license taxes. The state tax commissioner may require any such person, firm and corporation to install such meters or other devices  
4 [Eng. H. B. No. 3  
11 may be necessary for the purpose of ascertaining and assessing  
12 the tax herein provided for.

Sec. 4. The tax year for the collection of said tax shall begin with the first day of July and end with the thirtieth day of June following, beginning July first, nineteen hundred and nineteen, and shall be divided into two periods of six months each. Every person, firm and corporation subject to the tax hereby imposed shall deliver to the state tax commissioner a report in writing within thirty days after the end of each half-year period, showing the number of thousand feet of natural gas passed through its pipe lines and the length of such lines, and the amount of tax due thereon, also the number of thousand feet of natural gas passed through each pumping station or gas compressor station maintained or operated by such company during said period, and the amount of the tax due thereon, also the number of barrels of oil passed through its oil pipe lines and pumping stations and the amount of the tax due thereon. Such report shall be made in accordance with reasonable requirements of the state tax commissioner, and shall be signed and sworn to by the owner, manager, president, vice-president or chief accounting officer of the company making such report, as the case may be.  
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20 Any person, firm or corporation failing or refusing to make the return herein required shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars for each month failure continues, but the tax commissioner may, for good cause, extend the time for making a return in any case, and may for good reason excuse delay in the making of any such return.

Sec. 5. If such return be satisfactory to the state tax commissioner he shall ascertain and assess the tax upon the company making the same, and shall notify it of the amount of such tax by a notice forwarded by registered letter, addressed to such

5 company at its principal office or place of business. Such ascer-  
6 tainment of the tax shall be final and conclusive. If such re-  
7 turn be not satisfactory to the said commissioner, or if the com-  
8 pany fail or refuse to make a return, the commissioner shall  
9 proceed, in such manner as he may deem best, to obtain the facts  
10 and information required to be furnished by such return. As  
11 soon as possible after procuring such information as he may be  
12 able to obtain with respect to any return which he may find to be  
13 not satisfactory, or with respect to any company failing or re-  
14 fusing to make a return, the state tax commissioner shall proceed  
15 to ascertain and assess the tax upon such company, and shall  
6 [Eng. H. B. No. 3  
16 notify it of the amount thereof as hereinbefore provided. And  
17 his act shall be final as to any company which failed or refused  
18 to make a return.

Sec. 6. All taxes assessed under the provisions of this act  
2 shall be due and payable immediately upon receipt of the notifi-  
3 cation of the amount of such assessment provided for in section  
4 five of this act, and every person, firm and corporation so assessed  
5 shall pay such tax into the treasury within thirty days after re-  
6 ceipt of such notification.

Sec. 7. Any tax assessed under the provision of this act  
2 against any such company shall be a first lien on the property of  
3 such company, shall constitute a debt to the state, and may be  
4 collected by action of assumpsit, or any other remedy now or  
5 hereafter provided by law for the collection of taxes, which remedy  
6 shall be in addition to all other existing remedies. It shall be  
7 the duty of the state tax commissioner to proceed to collect such  
8 taxes promptly.

Sec. 8. The special license tax imposed by this act shall be  
2 in addition to all license or other privilege taxes now imposed or  
3 prescribed by law as a condition for the transaction of any busi-  
4 ness in this state, by any person, partnership, association, com-  
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5 pany or corporation; and when paid shall authorize the company  
6 making payment to engage in the business for which the tax was  
7 paid within this state for the half-year period succeeding that  
8 covered by the return upon which such taxes were assessed.

Sec. 9. Any person required or authorized by law to make,  
2-8 sign or verify any return required by this act, who makes any  
9 false or fraudulent return or statement with intent to defraud the



10 state, or defeat or evade the payment of the tax, or any part  
 11 thereof, imposed by this act, shall be guilty of a misdemeanor.  
 12 and, upon conviction thereof, shall be fined not less than one  
 13 thousand dollars nor more than five thousand dollars, or may be  
 14 imprisoned not exceeding one year, or both, at the discretion of  
 15 the court, to which fine shall be added the costs of the prosecu-  
 16 tion.

Sec. 10. That the sections, provisions and clauses of this  
 2 act shall be deemed separable each from the other, and also in  
 3 respect to the persons, firms, corporations and consumers men-  
 4 tioned therein or affected thereby, and if any separable part of  
 5 this act be, or be held to be unconstitutional or for any reason  
 6 invalid or unenforceable, the remaining parts thereof shall be and  
 7 remain in full force and effect.

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EXTRAORDINARY SESSION.

## House Bill No. 7

AN ACT relating to the protection of sheep and the tagging and  
 taxing of dogs.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any person to suffer or  
 2 permit any dog in his possession or kept by him about his premises,  
 3 to run at large on any unenclosed land, or trespass upon any en-  
 4 closed or unenclosed lands of another.

5 If any dog be suffered or permitted to run at large or tres-  
 6 pass as aforesaid, or kill or assist in killing, injuring or chasing  
 7 any sheep or other domestic animals other than on lands of the  
 8 owner or keeper of such dog, proof that such dog was at large at  
 9 the time and place of injury complained of shall be *prima facie*  
 10 evidence of liability and guilt, as hereinafter provided. But this  
 11 section shall not be construed as preventing the owner of such  
 12 dog from driving, chasing or catching his own property by use  
 13 thereof.

Sec. 2. The county court of every county and the council of  
 2 [Enrolled H. B. No. 7  
 2 every municipality, shall prepare and deliver, to its successor,  
 3 sheriff, constables, or other police officers, consecutively numbered

4 substantial aluminum or brass tags, bearing the calendar year and  
5 the name of the county or municipality issuing such tag, which  
6 shall be delivered by them to any citizen of the county or municipi-  
7 pality who may apply therefor and pay into its treasury a fee  
8 of not more than twenty-five cents for each tag, which tags shall  
9 be fastened upon the collars worn by the dogs owned or kept by  
10 such citizens, and for which fee such officer shall issue a receipt  
11 showing the name and address of the citizen and the year and  
12 number of the tag. Such officer shall also keep a record book  
13 showing the name and address of each citizen to whom such tags  
14 are issued, the number of such tags so issued and the year thereof.  
15 Any citizen may, and the sheriff, constables or other police offi-  
16 cers of any county, district or municipality, shall seize any dog  
17 found unaccompanied by its owner or keeper and running at  
18 large, on any road, street, or other public place, or trespassing  
19 on any premises other than the premises of the owner. If such  
20 dog is wearing a collar bearing such tag, it shall be impounded  
21 and the citizen or officer so seizing and impounding said dog shall  
22 immediatly thereafter by written notice notify the owner of such  
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23 dog as disclosed by the records herein provided for to be kept  
24 that such dog has been seized and impounded by him and unless  
25 such owner or keeper of such dog shall, within seven days from  
26 the receipt of said notice claim such dog, and pay such citizen or  
27 officer a fee of two dollars for seizing, and a fee of ten cents for  
28 each day it is impounded, it shall be killed forthwith in any  
29 humane manner. *Provided*, that any citizen or officer may kill  
30 any dangerous or vicious dog, or any dog not registered as herein  
31 provided for, and any dog permitted to run at large after the  
32 owner or keeper shall have had notice not to permit such dog to  
33 run at large, if such dog be off the premises and out of the con-  
34 trol of its owner or keeper. No citizen or officer shall be liable  
35 in damages or to prosecution by reason of killing any dog as  
36 herein provided. For every dog killed as herein provided  
36-a and cremated or buried or for every dog seized and not  
37 claimed by its owner or keeper as aforesaid, the county  
38 court or municipality shall pay the officer or citizen entitled  
39 thereto one dollar and said fees and costs upon due proof of the  
40 seizure, killing, impounding, cremating or burying of such dog;  
41 and the owner or keeper shall be liable therefor in any action before  
42 the court of justice having jurisdiction; *provided, further*, that it

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43 shall be the duty of the common council of every incorporated  
44 city, town or village in this state, to provide a suitable pound  
45 for such dog or dogs so seized under the provisions of this act.

Sec. 3. It shall be unlawful for any unnaturalized foreign-  
2 born resident of this state to own or keep a dog of any kind in  
3 this state.

Sec. 4. Any owner or keeper of a female dog who shall per-  
2 mit said dog to run at large or be exposed to public view while  
3 said animal is in heat, shall be deemed guilty of a misdemeanor,  
4 and upon conviction thereof, fined not less than ten nor more than  
5 fifty dollars.

Sec. 5. Nothing in this act shall be construed to prevent any  
2 citizen of this state from lawfully hunting with a dog or dogs on  
3 any land owned by him or by any person from whom such citizen  
4 has first secured permission to hunt with a dog or dogs; and no  
5 citizen shall hunt with a dog or dogs upon the land of another  
6 without written or verbal permission from the owner or lessee  
7 thereof.

Sec. 6. Any person violating any provision of this act or  
2 failing or neglecting to perform any duty imposed by it, shall be  
3 liable, in action of prosecution before any court or justice having  
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4 jurisdiction, for the amount of damage sustained, and also for a  
5 fine of not to exceed one hundred dollars and the cost of prosecu-  
6 tion; and any person who shall remove from any dog a collar  
7 bearing a tag as provided for in this act, or who shall alter or  
8 remove any such tag from a dog properly registered as herein  
9 provided for, shall be guilty of a misdemeanor, and, upon con-  
10 viction, shall be fined not to exceed one hundred dollars and the  
11 cost of the prosecution, and shall be liable to the owner or keeper  
12 of such dog in a civil action for the amount of damages sustained.

Sec. 7. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

## EXTRAORDINARY SESSION

## House Bill No. 1

AN ACT continuing the executive and advisory State Council of Defense as "Americanization, Reconstruction and Development Councils of West Virginia," and prescribing the powers and duties thereof.

*Be it enacted by the Legislature of West Virginia:*

Section 1. In pursuance of the provision of the council of national defense for the continuation of state, county and community councils for the promotion of national and state interests, and for the Americanization of foreign-born persons and the stimulation of industries for the employment of returning soldiers, sailors and other inhabitants of the state, and the enlistment of the civic, economic and patriotic services of the citizens of the state for the promotion of peacetime pursuits, the board of public works of this state, heretofore constituting the executive state council of defense, and the advisory state council of defense, consisting of citizens appointed by the governor, shall be continued during the period of post-war readjustment and shall hereafter be designated as the "Americanization, Reconstruction and Development Councils of West Virginia".

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Sec. 2. The board of public works, as executive council, shall meet from time to time for the purpose of considering and acting upon the duties hereinafter prescribed, and the members of the advisory council, consisting of not more than fifty citizens appointed from time to time by the governor, shall serve in their respective counties and communities and meet and act as advisors with the executive council when called by it; but no compensation except actual and necessary expenses shall be paid to the members of either council.

Sec. 3. The duties of the Americanization, Reconstruction and Development Councils of West Virginia shall be the following:

(a) The organization of county and community councils and other voluntary organizations for co-operation with the federal government in educational, industrial and vocational pursuits for foreign-born residents of the state, of all races and nationalities, so as to familiarize and unite them with the institutions, customs

8 and ideals of the state and to train them for useful American cit-  
9 izenship.

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10 (b) The encouragement and stimulation of private enter-  
11 prises and public works in the mutual interests of capital and  
12-14 labor.

15 (c) The ascertainment of the industrial resources and op-  
16 portunities of the state in agriculture, timber, minerals, utilities  
17 and powers, and the stimulation of their development and use for  
18 the benefit of returning soldiers, sailors and other inhabitants of  
19 the state.

20 (d) The co-operation of state, county and community coun-  
21 cils with the fifth federal reserve district in securing subscriptions  
22 by a large percentage of the population of the state to the victory  
23 liberty loan; and the supervision, regulation and control of the  
24 solicitation of funds for purposes arising out of the war, so as to  
25 protect the public against unnecessary and fraudulent solicitations  
26 and to conserve available funds for worthy objects and proper re-  
27 lief and reconstruction purposes.

28 (e) The designation and direction of county and community  
29 councils as agencies for the preservation of peace and order and  
30 the promotion of county and community welfare and interests in  
31 emergencies or circumstances requiring the civic, economic and  
32 patriotic services of citizens.

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33 (f) The carrying on of such other services and activities as  
34 may be recommended by the national council of defense or as may  
35 be deemed proper by the councils herein provided for.

Sec. 4. The executive council may adopt, publish and en-  
2 force such reasonable rules and regulations, with suitable pen-  
3 alties for the violation thereof, not in conflict with the rules and  
4 regulations of the national council of defense or the laws of this  
5 state, as may be proper or necessary for the operation and enforce-  
6 ment of the provisions of this act.

Sec. 5. For the purposes herein stated, there shall be appro-  
2 priated not more than five thousand dollars for the fiscal year of  
3 one thousand nine hundred and nineteen, and not more than five  
4 thousand dollars for the fiscal year of one thousand nine hundred  
5 and twenty, out of the state council of defense fund now in the  
6 treasury of this state; *provided*, that any unexpended part of the

7 appropriation for any fiscal year shall revert into the fund in the  
8 treasury of the state for general purposes.

Sec. 6. All acts and parts of acts inconsistent with the pro-  
2 visions of this act are hereby repealed.

## House Bill No. 14.

Introduced March 19, 1919. Reference to committee dispensed  
with; read a first time and ordered to its second reading.

A BILL to amend chapter fifty-one of the West Virginia code of  
one thousand nine hundred and thirteen by adding thereto a  
new section to be numbered seventeen, providing a fee for the  
issuance of commissions to state commissioners.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-one of the West Virginia code of one thousand  
nine hundred and thirteen be amended by adding thereto a new sec-  
tion, numbered seventeen, to read as follows:

Section 17. The governor shall appoint and commission so  
2 many commissioners in this state as he may deem proper, whose  
3 term of office shall be for a term of ten years from the date  
4 of such appointment and commission, but they may be removed  
5 and their office vacated pursuant to the third and tenth sections  
6 of chapter seven of the twenty-first and twenty-second sections  
7 of chapter ten of the code.

8 *Provided*, that before such appointment is made, the appli-  
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9 cant shall obtain from the judge of the circuit court, or from the  
10 judge of any criminal, or intermediate court of the applicant's  
11 respective judicial circuit or county, wherein he resides, a certifi-  
12 cate showing the applicant to be a person competent to perform  
13 the duties of such office, of good moral character, qualified for  
14 the office, and a resident of the state for more than five years.

15 A commissioner under the regulations prescribed by law,  
16 may take within the state of West Virginia, acknowledgments  
17 of deeds or other writings, the privy examinations of married  
18 women respecting the same, and lawfully administer any oath,  
19 take any affidavit or depositions anywhere within the jurisdic-  
20 tion of the state of West Virginia, and have generally the powers

21 of a notary public within said state and the several counties  
22 thereof.

23 The certificate of a commissioner of this state in any case,  
24 specified in this section shall be under his signature and official  
25 seal, which seal shall be affixed thereto.

26 The official title of such commissioner shall be "commis-  
27 sioner for West Virginia," and which title shall be affixed after  
28 the signature of such commissioner who shall provide an official  
29 seal in which shall be designated his name, and the words "com-  
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30 missioner for West Virginia," an impression of which seal, to-  
31 gether with his signature shall be forthwith transmitted to and  
32 filed in the office of the secretary of state.

32-a Every certificate as such commissioner shall be authenticated  
32-b by his signature and official seal together with a statement of the  
32-c time when his commission expires and of the county of his resi-  
33 dence.

34 When a commission has been issued to a commissioner for  
35 West Virginia, he shall execute a bond in the penalty of three  
36 thousand dollars, payable to the state of West Virginia, condi-  
37 tioned for the faithful performance of his said office, with good  
38 and sufficient security to be approved by and acknowledged before  
39 the clerk of the circuit court of the county wherein such commis-  
40 sioner resides, and shall subscribe to and take an oath before such  
41 clerk to support the constitution of the United States and the state  
42 of West Virginia and faithfully and honestly perform the duties  
43 of his office. The bond together with the oath of office shall be  
44 filed in the office of the secretary of state. The secretary of state  
45 shall be paid for issuing a commission to a commissioner for West  
46 Virginia, supply blanks for application, bond and oath and filing  
47 bond and oath, the sum of fifty dollars, and for issuing any certifi-

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48 cate to any such commissioner showing his authority to act and  
49 the time his commission expires, the sum of one dollar, which  
50 sums shall be paid into the state treasury. A clerk of the circuit  
51 court shall be paid the sum of one dollar for approving and taking  
52 the acknowledgment on such bond.

53 Nothing herein shall be construed to prohibit any notary public  
54 holding a certificate as such, which is in force, from becoming  
55 commissioned a commissioner for West Virginia, as herein pro-  
56 vided who may exercise the power of both commissions at the

57 same time, nor to limit the powers of a notary public within his  
58 county. But all the provisions of this chapter relating to notaries  
59 shall apply to commissioners appointed under this section so far  
60 as the same are applicable.

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HOUSE CONCURRENT RESOLUTION NO. 1.

(Adopted March 13, 1919.)

Authorizing the auditor to issue warrants for mileage and per diem of members, officers and attaches of the Legislature.

*Resolved by the Legislature of West Virginia:*

That the auditor is hereby authorized to issue his warrants upon the treasurer in advance of the passage of the legislative appropriation bill, for such amounts as are, or may become due to the several members, officers and attaches of the senate and house of delegates, for the per diem and mileage of the members, and per diem of attaches upon the proper requisition of the clerk of the senate and the sergeant-at-arms of the house, respectively.

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HOUSE CONCURRENT RESOLUTION NO. 2

(Adopted March 21, 1919.)

*Resolved*, That it is the sense of the legislature of West Virginia that the adoption by the United States of America of the proposed constitution for a league of nations would be unwise. That while we believe that an agreement should, if possible, be entered into limiting armament and otherwise tending toward the prevention of war, that we regard the proposed league of nations as an abandonment of the Monroe Doctrine and of our traditional policy of avoiding entangling alliances with European nations. That most of the provisions of the proposed constitution for a league are so vague and indefinite as to be occasions for future disputes and wars rather than aids to the preservation of peace; and that in general where the provisions of the said proposed constitution are clear they commit us to the performance of duties throughout the world the assumption of which, on the part of this country, would be most unwise. Be it further

*Resolved*, That we approve the course of those United States senators who have expressed their unwillingness to ratify a treaty binding



us to the provisions of the proposed constitution for a league of nations; and that a copy of these resolutions be furnished to each of the United States senators from West Virginia.

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### HOUSE CONCURRENT RESOLUTION NO. 3.

(Adopted March 31, 1919.)

Authorizing the janitor of the capitol to employ, under the statute, additional help during the present extra session of the legislature."

*Resolved by the House of Delegates, the Senate concurring therein:*

That the janitor of the capitol appoint, not to exceed eleven additional helpers during the present extra session of the legislature, at the rate of three dollars per day each, six of whom shall be paid out of the contingent fund of the house, upon proper warrants drawn by the sergeant-at-arms of the house upon the auditor, and five to be paid out of the contingent fund of the senate upon proper warrants drawn upon the auditor by the clerk of the senate; and that the three dollars per day allowed by law to the chief janitor as extra compensation during the session, be paid one-half out of the contingent fund of the house and the other half out of the contingent fund of the senate, upon warrants drawn by the proper officers upon the auditor.

*Resolved, further,* That the janitor also appoint two charwomen, who shall receive the same compensation as the assistant legislative janitors, one of said charwomen to be paid out of the contingent fund of the house and the other out of the contingent fund of the senate upon warrants drawn upon the auditor by the sergeant-at-arms of the house and the clerk of the senate, respectively.

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### HOUSE CONCURRENT RESOLUTION NO. 4

(Adopted March 26, 1919.)

Providing for the appointment, by the governor, of a committee to co-operate with the federal government relative to securing the location of a project or projects, in this state, in the event of the passage by congress of soldier settlement legislation.

WHEREAS, the department of the interior has under consideration